

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 558 Session of 1997

INTRODUCED BY GREENLEAF, AFFLERBACH, BELAN, BELL, COSTA, HART, HECKLER, KUKOVICH, TOMLINSON AND SCHWARTZ, MARCH 3, 1997

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 3, 1997

AN ACT

1 Amending the act of March 1, 1974 (P.L.90, No.24), entitled "An
2 act relating to the labeling, distribution, storage,
3 transportation, use, application and disposal of pesticides
4 and devices; providing for registration and examination of
5 such materials; the licensing of pesticide dealers and pest
6 management consultants and imposing penalties," further
7 providing for the regulation and certification of persons
8 using or applying pesticides; requiring certain notice and
9 posting when pesticides are used; and providing that certain
10 information shall be available to the public.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 4 of the act of March 1, 1974 (P.L.90,
14 No.24), known as the Pennsylvania Pesticide Control Act of 1973,
15 amended or added December 12, 1986 (P.L.1542, No.167), is
16 amended to read:

17 Section 4. Definitions.--As used in this act:

18 (1) "Active ingredient" means:

19 (i) in the case of a pesticide other than a plant regulator,
20 defoliant, or desiccant, an ingredient which will prevent,
21 destroy, repel, or mitigate any pest;

22 (ii) in the case of a plant regulator, an ingredient which,

1 through physiological action, will accelerate or retard the rate
2 of growth or rate of maturation or otherwise alter the behavior
3 of ornamental or crop plants or the product thereof;

4 (iii) in the case of a defoliant, an ingredient which will
5 cause the leaves or foliage to drop from a plant; and

6 (iv) in the case of a desiccant, an ingredient which will
7 artificially accelerate the drying of plant tissue.

8 (2) "Administrator" means the administrator of the Federal
9 Environmental Protection Agency.

10 (3) "Adulterated" applies to any pesticide if:

11 (i) its strength or purity falls below the professed
12 standard of quality as expressed on its labeling under which it
13 is sold;

14 (ii) any substance has been substituted wholly or in part
15 for the pesticide; or

16 (iii) any valuable constituent of the pesticide has been
17 wholly or in part abstracted.

18 (4) "Animal" means all vertebrate and invertebrate species,
19 including but not limited to man and other mammals, birds, fish,
20 and shellfish.

21 (5) "Antidote" means a practical treatment in case of
22 poisoning and includes first-aid treatment.

23 (6) "Applicator" means certified applicator, private
24 applicator, commercial applicator or public applicator.

25 [(A)] (6.1) "Certified applicator" means any individual who
26 is certified under section 16.1, 17 or 17.1 of this act as
27 competent to use or [supervise the use or application of] apply
28 any pesticide.

29 [(B)] (6.2) "Private applicator" means a certified
30 applicator who uses [or supervises the use of] any pesticide

1 which is classified for restricted use for purposes of producing
2 any agricultural commodity on property owned or rented by him or
3 his employer or, if applied without compensation other than
4 trading of personal services between producers of agricultural
5 commodities, on the property of another person.

6 [(C)] (6.3) "Commercial applicator" means a certified
7 applicator (whether or not he is a private applicator with
8 respect to some uses) who uses [or supervises the use of] any
9 pesticide on the property or premises of another, or on
10 easements granted under State law, or any applicator who uses
11 [or supervises the use of] any restricted use pesticide on
12 property owned or rented by him or his employer, when not for
13 purposes of producing an agricultural product. The secretary may
14 by regulation deem certain types of applicators using any
15 pesticide on their own property or that of his employer as
16 commercial applicators.

17 [(D)] (6.4) "Public applicator" means any certified
18 applicator who applies pesticides as an employe of the State or
19 its instrumentalities or any local agency.

20 [(E) "Pesticide application technician" means any individual
21 employed by a commercial applicator or governmental agency who,
22 having met the competency requirements of section 16.1 of this
23 act, is registered by the secretary to apply any pesticides
24 under the direct supervision of a certified applicator.]

25 (7) "Beneficial insects" means those insects which, during
26 their life cycle, are effective pollinators of plants, are
27 parasites or predators of pests, or are otherwise beneficial.

28 (8) "Board" means the Pesticide Advisory Board.

29 (8.1) "Central registry system" means a list maintained by
30 the Bureau of Plant Industry of the department of all persons

1 who have requested in writing that they desire forty-eight hours
2 notification of an application of a pesticide within a one-half
3 mile radius of their property, to be accessed by all licensees
4 prior to any contractual application.

5 (8.2) "Customer" means a person who has entered into a
6 contract with a licensee for the application of pesticides.

7 (9) "Defoliant" means any substance or mixture of substances
8 intended for causing the leaves or foliage to drop from a plant,
9 with or without causing abscission.

10 (9.1) "Department" means the Department of Agriculture of
11 the Commonwealth.

12 (10) "Desiccant" means any substance or mixture of
13 substances intended for artificially accelerating the drying of
14 plant tissue.

15 (11) "Device" means any instrument or contrivance (other
16 than a firearm) which is intended for trapping, destroying,
17 repelling, or mitigating any pest or any other form of plant or
18 animal life (other than man and other than bacteria, virus, or
19 other microorganism on or in living man or other living
20 animals); but not including equipment used for the application
21 of pesticides when sold separately therefrom.

22 (12) "Distribute" means to offer for sale, hold for sale,
23 sell, barter, or supply pesticides in this State.

24 (13) "Environment" includes water, air, land, and all plants
25 and man and other animals living therein, and the
26 interrelationships which exist among these.

27 (14) "Equipment" means any type of ground, water or aerial
28 equipment or contrivance using motorized, mechanical or
29 pressurized power and used to apply any pesticide on land and
30 anything that may be growing, habitating or stored on or in such

land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in pesticide application.

(15) "Establishment" means any place where a pesticide or device is produced, or held, for distribution or sale.

(15.1) "Experimental use pesticide" means a pesticide that has not yet been fully approved by the Commonwealth and the Federal Environmental Protection Agency and is allowed to be used on an experimental basis with a permit.

(16) "Fungus" means any non-chlorophyll bearing thallophyte (that is, any non-chlorophyll bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

(16.1) "General use pesticide" means any pesticide that is not classified as either a restricted or experimental use pesticide.

(17) "Highly toxic" means any highly toxic pesticide as determined by the administrator.

(18) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on people and the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior of the United States under Public Law 91-135.

(19) "Inert ingredient" means an ingredient which is not active.

1 (20) "Ingredient statement" means a statement which
2 contains:

3 (i) the name and percentage of each active ingredient, and
4 the total percentage of all inert ingredients, in the pesticide;
5 and

6 (ii) if the pesticide contains arsenic in any form, a
7 statement of the percentages of total and water soluble arsenic,
8 calculated as elementary arsenic.

9 (21) "Insect" means any of the numerous small invertebrate
10 animals generally having the body more or less obviously
11 segmented, for the most part belonging to the class insecta,
12 comprising six-legged, usually winged forms, as for example,
13 beetles, bugs, bees, flies, and to other allied classes of
14 arthropods whose members are wingless and usually have more than
15 six legs, as for example, spiders, mites, ticks, centipedes, and
16 wood lice.

17 (22) "Label" means the written, printed, or graphic matter
18 on, or attached to, the pesticide or device or any of its
19 containers or wrappers.

20 (23) "Labeling" pertaining to pesticide registration means
21 all labels and all other written, printed, or graphic matter:

22 (i) accompanying the pesticide or device at any time; or

23 (ii) to which reference is made on the label or in
24 literature accompanying the pesticide or device, except to
25 current official publications of the Federal Environmental
26 Protection Agency, the United States Departments of Agriculture
27 and Interior, the Department of Health, Education and Welfare,
28 State experiment stations, State agricultural colleges, and
29 other similar Federal or State institutions or agencies
30 authorized by law to conduct research in the field of

1 pesticides.

2 (24) "Land" means all land and water areas, including
3 airspace, and all plants, animals, structures, buildings,
4 contrivances, and machinery appurtenant thereto or situated
5 thereon, fixed or mobile, including any used for transportation.

6 (24.1) "License" means written permission, issued by the
7 department, to a business or person as authorized in sections
8 12, 13 and 15.1 of this act.

9 (24.2) "Local agency" means a governmental unit other than
10 the Commonwealth government. The term shall include, but not be
11 limited to, a county, city, borough, town, township, school
12 district or municipal authority.

13 (24.3) "Material Safety Data Sheet" or "MSDS" means a
14 written document prepared by a manufacturer, supplier or
15 importer for the purpose of transmitting information concerning
16 a chemical.

17 (25) "Misbranded" means any pesticide which fails to be
18 labeled in accordance with section 2, definitions - (q)
19 misbranded - of the "Federal Insecticide, Fungicide, and
20 Rodenticide Act [of 1947," as amended in 1972]."

21 (27) "Nematode" means invertebrate animals of the phylum
22 nemathelminthes and class nematoda, that is unsegmented round
23 worms with elongated, fusiform, or saclike bodies covered with
24 cuticle, and inhabiting soil, water, plants, or plant parts; may
25 also be called nemas or eelworms.

26 (28) "Permit" means a written certificate, issued by the
27 secretary or his authorized agent, authorizing the purchase,
28 possession, and/or use of pesticides classified for restricted
29 use by a private applicator.

30 (29) "Person" means any individual, partnership,

1 association, corporation, or any organized group of persons
2 whether incorporated or not.

3 (30) "Pest" means any insect, rodent, nematode, fungus,
4 weed, or any other form of terrestrial or aquatic plant or
5 animal life or virus, bacteria, or other microorganism (except
6 viruses, bacteria, or other microorganisms on or in living man
7 or other living animals) which the administrator declares to be
8 a pest under section 25(c)(1) of the "Federal Insecticide,
9 Fungicide, and Rodenticide Act [of 1947," as amended in 1972]."

10 (31) "Pesticide" means any substance or mixture of
11 substances intended for preventing, destroying, repelling, or
12 mitigating any pest, and any substance or mixture of substances
13 intended for use as a plant regulator, defoliant, or desiccant.

14 (32) "Pesticide dealer" means any person who sells or
15 distributes pesticides classified for "restricted use."

16 (33) "Pest management consultant" means any individual who
17 is not a licensed applicator, and who for a fee offers, or
18 supplies technical advice, supervision or aid, or makes
19 recommendations to the user of pesticides classified for
20 restricted use.

21 (34) "Plant regulator" means any substance or mixture of
22 substances intended, through physiological action, for
23 accelerating or retarding the rate of growth or rate of
24 maturation, or for otherwise altering the behavior of plants or
25 the produce thereof, but shall not include substances to the
26 extent that they are intended as plant nutrients, trace
27 elements, nutritional chemicals, plant inoculants, and soil
28 amendments. Also, the term "plant regulator" shall not be
29 required to include any of such of those nutrient mixtures or
30 soil amendments as are commonly known as vitamin-hormone

1 horticultural products, intended for improvement, maintenance,
2 survival, health, and propagation of plants, and as are not for
3 pest destruction and are nontoxic, nonpoisonous in the undiluted
4 packaged concentration.

5 (35) "Producer and produce". The term "producer" means the
6 person who manufactures, prepares, compounds, propagates, or
7 processes any pesticide or device. The term "produce" means to
8 manufacture, prepare, compound, propagate, or process any
9 pesticide or device.

10 (36) "Protect health and the environment" mean protection
11 against any unreasonable adverse effects on people and the
12 environment.

13 (37) "Registrant" means a person who has registered any
14 pesticide pursuant to the provisions of this act.

15 (38) "Registration" includes reregistration.

16 (38.1) "Residential property" means homes, apartments,
17 townhouses, condominiums, schools, nursing homes, day-care
18 centers, playing fields and playgrounds. The term does not
19 include land used for the commercial production of agricultural
20 or horticultural products.

21 (38.2) "Residential use" means the application of pesticides
22 to lawns, trees and shrubs on residential property by a
23 commercial applicator.

24 (39) "Restricted use" means the use of a pesticide which is
25 classified as a restricted use pursuant to section 3(d) of the
26 "Federal Insecticide, Fungicide, and Rodenticide Act [of 1947,"
27 as amended in 1972]."

28 (39.1) "Secretary" means the Secretary of Agriculture of the
29 Commonwealth.

30 (40) "Snails or slugs" includes all harmful mollusks.

1 [(40.1) "Under the direct supervision of a certified
2 commercial or public applicator," unless otherwise prescribed by
3 labeling, means application by a registered pesticide
4 application technician acting under the instructions and control
5 of a certified applicator who is available if and when needed,
6 even though such certified applicator is not physically present
7 at the time and place the pesticide is applied, or application
8 by a crew of noncertified or nonregistered employees working
9 under the instruction and control of a certified commercial or
10 public applicator who is physically present at the job site.]

11 (41) "Unreasonable adverse effects on the environment" means
12 any unreasonable risk to man or the environment, taking into
13 account the health, economic, social, and environmental costs
14 and benefits of the use of any pesticide.

15 (42) "Weed" means any plant which grows where not wanted.

16 (43) "Wildlife" means all living things that are neither
17 human, domesticated, nor, as defined in this act, pests;
18 including, but not limited to mammals, birds, and aquatic life.

19 Section 2. Section 5.1 of the act is amended by adding a
20 subsection to read:

21 Section 5.1. Registration.--* * *

22 (j) The secretary may limit the use of a pesticide or
23 prohibit it in accordance with the criteria set forth by the
24 "Federal Insecticide, Fungicide, and Rodenticide Act."

25 Section 3. Sections 7, 8(f) and 16.1 of the act, amended or
26 added December 12, 1986 (P.L.1542, No.167), are amended to read:

27 Section 7. Determinations; Rules and Regulations; Classified
28 for Restricted Use and General Use; and Uniformity.--(a) The
29 secretary is authorized, after due notice and an opportunity for
30 a hearing or public comment:

(1) To declare as a pest any form of plant or animal life (except virus, bacteria, or other microorganisms on or in living man or other living animals) which is injurious to man, desirable animals, desirable plants, and land; and

(2) To determine pesticides, and quantities of substances contained in pesticides, which are injurious to people and the environment. The secretary shall be consistent with the Federal Environmental Protection Agency regulations in this determination.

(b) The secretary is authorized, after due notice and a public hearing or public comment, to adopt appropriate regulations for carrying out the provisions of this act, including but not limited to regulations providing for:

(1) The collection, examination, and reporting of samples of pesticides or devices.

(2) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers consistent with "Federal Insecticide, Fungicide, and Rodenticide Act [of 1947," as amended in 1972]."

(3) Restricting or prohibiting the use of certain types of containers or packages for pesticides not federally registered. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, or misuse. The secretary shall be consistent with Federal regulations concerning pesticide containers.

(4) Labeling requirements of all pesticides not federally registered required to be registered under provisions of this act.

(5) Regulating the labeling of devices.

(6) Adopting lists of pesticides classified for restricted

1 and general use for the Commonwealth or for designated areas
2 within the Commonwealth if the secretary determines that such
3 pesticides may require regulations restricting or prohibiting
4 their distribution or use. Such lists are to be consistent with
5 Federal lists unless there is a local need or imminent hazard.
6 The secretary may include in the regulation the time and
7 conditions of distribution or use of such pesticides classified
8 for restricted or general use and may, if he deems it necessary
9 to carry out the purpose and provisions of this act, require
10 that any or all pesticides classified for restricted or general
11 use shall be purchased, possessed, or used only under the permit
12 of the secretary and under his direct supervision in certain
13 areas and/or under certain conditions or in certain quantities
14 or concentrations.

15 (c) Such rules and regulations shall be adopted pursuant to
16 the provisions of the act of July 31, 1968 (P.L.769, No.240),
17 known as the "Commonwealth Documents Law."

18 (d) For the purpose of uniformity of requirements between
19 the states and the Federal Government, and to avoid confusion
20 endangering people and the environment, the secretary may, after
21 a public hearing or public comment, adopt regulations in
22 conformity with the primary pesticide standards, particularly as
23 to labeling, registration requirements, and pesticides
24 classified for restricted use as established by the Federal
25 Environmental Protection Agency or other Federal or Commonwealth
26 agencies.

27 (e) Nothing in this act shall be construed as requiring the
28 secretary to report minor violations of this act for prosecution
29 or for the institution of condemnation proceedings when he
30 believes that the public interest will be served best by a

1 suitable notice of warning in writing. However, the secretary
2 shall maintain an appropriate record of all violations
3 identified as a result of use observations, misuse
4 investigations or by inspectors in the normal conduct of their
5 duties.

6 Section 8. Prohibited Acts.--* * *

7 (f) No person shall use for his own advantage [or reveal]
8 any information relative to the formulas, supporting data or
9 other [confidential] information for registration of pesticide
10 products acquired by the authority of section 5.1 of this act[,
11 but this provision shall not be deemed to prohibit the
12 disclosure of information to the secretary or proper officials
13 or employees of the Commonwealth, or to courts of competent
14 jurisdiction in response to a subpoena, or to physicians or
15 pharmacists or other qualified persons for purposes of providing
16 health care treatment].

17 * * *

18 Section 16.1. Standards of Qualifications for Certification
19 of Commercial Applicators.--No individual shall be certified
20 competent to apply [or supervise the application of] any
21 pesticide for any purpose unless he has demonstrated his
22 competence to apply pesticides in the proper certification
23 category. Each category shall be subject to separate written
24 testing procedures, requirements and examination fees and shall
25 demonstrate minimum standard proficiency on the basis of a
26 written examination conducted at an approved test site under
27 direction of the department or its designated agents. The
28 secretary shall require a fee not to exceed fifty dollars (\$50)
29 for the basic core examination for certified applicators, and an
30 additional fee not to exceed ten dollars (\$10) shall be charged

1 for each additional category in which the applicant desires to
2 be certified. An annual fee of thirty dollars (\$30) shall be
3 charged when the certification does not require an examination.
4 Certifications shall be valid for one calendar year. The
5 secretary shall promulgate rules and regulations pertaining to:

6 (1) Written examination requirements for obtaining an
7 applicator's certification. Each applicant for certification
8 shall demonstrate knowledge and competence as to:

9 (i) Identification of pests to be controlled and the damages
10 caused by such pests.

11 (ii) The appropriate control measures to be used, including
12 pesticides, nonchemical means and integrated pesticide
13 management technique.

14 (iii) The hazards that may be involved in applying
15 pesticides, so as to protect people and the environment.

16 (iv) The proper use of pesticide application equipment,
17 including calibration and dosage calculations.

18 (v) Protective clothing and respiratory equipment required
19 during application and handling of pesticides.

20 (vi) General precautions to be followed in cleaning and
21 maintaining equipment used.

22 (vii) Transportation, storage and disposal of pesticides.

23 (viii) Applicable Federal and State pesticide laws and
24 regulations.

25 (2) Renewal of applicator's certificates shall be on the
26 basis of attendance at approved courses. Such courses shall
27 include, at a minimum, a review of certification course subject
28 matter, but shall not include a written examination.

29 Section 4. Section 16.2 of the act is repealed.

30 Section 5. Sections 17.1, 17.2, 17.3 and 25.1 of the act,

1 added December 12, 1986 (P.L.1542, No.167), are amended to read:

2 Section 17.1. Public Applicators.--No person employed by any
3 unit of a Federal, State or local agency shall engage in
4 applying pesticides at any time without being certified as
5 provided under [sections 16.1 and 16.2] section 16.1 of this
6 act. Such certification fee shall be ten dollars (\$10) and shall
7 be valid for a three-year period.

8 Section 17.2. Private Applicators.--(a) No private
9 applicator shall use any pesticides [classified for restricted
10 use] without that private applicator first complying with the
11 certification requirements determined by the secretary as
12 necessary to prevent unreasonable adverse effects on people or
13 on the environment. To be certified, the private applicator
14 shall pass a written examination administered at an approved
15 test site by the secretary or his agent.

16 (b) Certain standards to determine the individual's
17 competency with respect to the use and handling of restricted
18 use pesticides by the private applicator shall take into
19 consideration the standards of the Federal Environmental
20 Protection Agency, but, as a minimum, shall include the
21 following topics:

- 22 (1) Labeling and label comprehension.
- 23 (2) Safety and health.
- 24 (3) Environmental protection.
- 25 (4) Pests.
- 26 (5) Pesticides.
- 27 (6) Integrated pest management.
- 28 (7) Equipment.
- 29 (8) Application techniques and technology.
- 30 (9) Laws and regulations.

1 (c) Upon successful completion of the written examination,
2 the private applicator shall be issued a permit authorizing the
3 purchase and use of restricted use pesticides. Such permit fee
4 shall be ten dollars (\$10) and shall be valid for a three-year
5 period.

6 (d) A private applicator shall be recertified as competent
7 with respect to the use and handling of restricted use
8 pesticides upon the successful completion of an update training
9 program as determined by the secretary. Such program shall
10 include, at a minimum, a review of certification topics, but
11 shall not include a written examination.

12 Section 17.3. Protection of Trade Secrets and Other
13 Information.--(a) In submitting data required by this act, the
14 applicant may:

15 (1) Clearly mark any portions thereof which in his opinion
16 are trade secrets or commercial or financial information.

17 (2) Submit such marked material separately from other
18 material required to be submitted under this act.

19 (b) Notwithstanding any other provisions of this act, the
20 secretary shall not make public information which in his
21 judgment contains or relates to trade secrets in commercial or
22 financial information which is obtained from a person [and is
23 privileged or confidential, except that, when necessary to carry
24 out the provisions of this act, information relating to formulas
25 of products acquired by authorization of this act may be
26 revealed to any State or Federal agency consulted or as required
27 by law].

28 (c) If the secretary proposes to release for inspection
29 information which the applicant or registrant believes to be
30 protected from disclosure under subsection (b), he shall notify

1 the applicant or registrant, in writing, by certified mail. The
2 secretary shall not thereafter make available for inspection
3 such data until thirty days after receipt of the notice by the
4 applicant or registrant. During this period, the applicant or
5 registrant may initiate an action in an appropriate court for a
6 declaratory judgment as to whether such information is subject
7 to protection under subsection (b).

8 Section 25.1. Additional Regulatory Authority.--(a) The
9 secretary shall, after due notice and public comment, adopt
10 appropriate regulations providing for:

11 (1) The control of the aerial application of [restricted
12 use] pesticides to rights-of-way only after notice in a
13 newspaper of general circulation in the affected area, at least
14 one week prior to the date of application. This regulation shall
15 include, but not be limited to:

16 (i) Minimum spraying distances.

17 (ii) Procedural prohibitions and restrictions relating to
18 weather conditions.

19 (2) The prior notification by commercial applicators to
20 individuals residing [in dwellings on land contiguous to a
21 restricted use pesticide application site.] on residential
22 properties within a one-half-mile radius of an application site
23 where individuals have requested to be notified or have
24 registered with the central registry system, as provided for in
25 sections 4(8.1) and 25.2. The secretary, by regulations, shall
26 determine the appropriate mechanism for and the timing and form
27 of notification.

28 (3) Regulations to prohibit the application of restricted
29 use pesticides within one hundred feet of certain publicly owned
30 or designated lands unless a waiver is granted. The secretary

1 may grant a waiver if an applicant demonstrates that:

2 (i) The application of the pesticide will not have an
3 unreasonable, adverse effect on human health or the environment.

4 ~~[(i)]~~ (ii) The application of the specified pesticide is
5 necessary and will result in a demonstrated public benefit.

6 ~~[(ii)]~~ (iii) The application of the pesticide will not cause
7 adverse impact on the use of the area to be protected.

8 ~~[(iii)]~~ (iv) The application of the pesticide will not
9 result in the destruction or loss of any rare or endangered
10 flora or fauna or significant natural community existing in the
11 protected area.

12 (b) The protected publicly owned or designated area under
13 this section shall include:

14 (1) Designated natural areas on State forest lands.

15 (2) Areas designated on Pennsylvania's Natural Diversity
16 Inventory containing rare or endangered species or significant
17 natural communities.

18 Section 6. The act is amended by adding sections to read:

19 Section 25.2. Notification by Commercial Applicators.--(a)
20 Any person may request to be notified of the date of an
21 application of a pesticide on residential property within a one-
22 half-mile radius of his residence.

23 (b) No less than forty-eight hours notice in writing or by
24 direct phone contact shall be given by the commercial applicator
25 proposing to apply the pesticide to any person requesting such
26 notice. The notice shall state, within one hour, the time of the
27 proposed spraying.

28 (c) A request for prior notice may be made by making the
29 request directly to the commercial applicator or by registering
30 in the central registry system.

1 (d) Commercial applicators shall consult the central
2 registry system monthly for updates before any proposed
3 application.

4 (e) A person who has requested and been given notice shall
5 have the right to refuse the application by any commercial
6 applicator three times per year. Each commercial applicator
7 shall maintain a record of persons who have contacted him
8 refusing applications and the time and manner of the contact,
9 which record shall be maintained for at least two years as to
10 any person. Any application made after a valid refusal as
11 authorized by this section shall constitute a violation of this
12 act.

13 (f) If for any reason the application cannot be carried out
14 at the time stated in the notice required by subsection (b), the
15 commercial applicator shall, by direct phone contact or any
16 other means, promptly so inform the persons who have requested
17 notice of the proposed spraying and, at that time or as soon as
18 a new date is set, inform them of the new date and time.

19 Section 25.3. Contracts.--All licensees shall, prior to
20 application on residential property, have a written contract
21 with their customers. The contract shall include information
22 about all the chemicals to be applied. The information shall be
23 either complete MSDS forms or complete label information. Such
24 information, in addition to being set forth in the contract,
25 shall be given to the customers prior to each application.
26 Licensees shall provide information regarding alternatives to
27 chemical spraying, such as organic alternatives, as well as
28 integrated pest management. The contract shall also include
29 complete information about the responsibility of displaying a
30 sticker or sign and complete information about the

1 responsibility of notifying persons who request to be notified.
2 After entering into a contract the customer shall display a
3 sticker or sign on a front window or other easily seen portion
4 of a residential property containing the name of the licensee,
5 so that there will be no danger of misapplication. The sticker
6 or sign shall be recognizable from the nearest street.

7 Section 25.4. Odor.--No pesticide shall be applied unless it
8 has a clearly perceptible odor. The odor may either be from the
9 pesticide itself or from one of the inert ingredients.

10 Section 25.5. Application of Pesticides in or near
11 Schools.--No pesticide shall be applied in or in the immediate
12 proximity of a school at any time that students, teachers or
13 administrative staff are in the school.

14 Section 25.6. Posting of Signs by Commercial Applicators.--
15 (a) Signs shall be posted at least forty-eight hours before any
16 pesticide application by a commercial applicator on residential
17 property. The signs shall be posted on the perimeter of the
18 property to be sprayed at reasonable intervals and shall be not
19 less than eighteen inches by twenty-four inches in size. One
20 sign shall be posted and readable by the main access to the
21 property and any other major thoroughfare. Signs posted pursuant
22 to this section shall include:

23 (1) The name, address and phone number of the licensee.

24 (2) The name of the pesticide or active ingredient that will
25 be sprayed.

26 (3) The date and time of proposed applications.

27 (b) After any application of a pesticide, signs shall be
28 posted on the perimeter of the property sprayed. Such signs
29 shall be the same size and posted in the same manner as provided
30 in subsection (a), and shall remain in place for at least forty-

1 eight hours. These signs shall include the following:

2 (1) The name, address and phone number of the licensee.

3 (2) The name of the pesticide or the active ingredient.

4 (3) The address and phone number of the Pennsylvania poison
5 control center or the nearest local poison control center.

6 (4) A "Mr. Yuk" symbol.

7 (5) Health, safety and medical information or the MSDS or
8 labels to provide the health, safety and medical information in
9 plain English as prescribed by the secretary by regulation.

10 (c) Information on pesticides which is required to appear on
11 signs shall be supplied by and obtained from the manufacturer.

12 (d) The secretary may, by regulation, determine additional
13 information to be included on the signs as well as the color of
14 signs or additional areas where signs are to be posted.

15 (e) Both the customer and the licensee shall be responsible
16 for posting signs as required by this section before and after
17 spraying. No application shall be made unless they have
18 confirmed that the signs have been posted.

19 (f) It shall be unlawful for anyone to remove, alter or
20 deface a sign that has been so posted or to conspire with
21 another to remove, alter or deface a sign. The customer or
22 licensee shall not be held liable for any penalty for sign
23 removal if the sign is removed by another person under
24 circumstances over which the customer or licensee has no
25 control.

26 (g) Application shall not be made on days when wind
27 conditions cause drift from the boundaries of the target
28 property. A wind speed in excess of three miles per hour shall
29 be sufficient to prohibit a spray application in a residential
30 area. The wind speed limitation shall not apply in any case

1 where an application of pesticides must be made to control the
2 gypsy moth or the black fly and, if a biological product is
3 applied, there shall be no right of refusal, as provided for in
4 section 25.2.

5 (h) Pesticides shall not be applied prophylactically unless
6 there is strong evidence of potentially hazardous infestation to
7 human health or to property or to the environment.

8 (i) If a property owner has services performed on the
9 exterior of his property within seven days after the application
10 of a pesticide it shall be his duty to inform the person
11 performing the services of the application and the name of the
12 pesticide applied.

13 Section 25.7. Vehicles Transporting Pesticides.--Any
14 commercial vehicle transporting pesticides shall, by decal or
15 otherwise, display on both sides of the cab, a list of the
16 chemical contents of the pesticide.

17 Section 35.1. Access to Information.--All information files
18 with the department relating to the registration of pesticides,
19 as provided for in section 5.1, shall be available to the public
20 to the extent that, in the judgment of the secretary, such
21 information will not reveal a trade secret, as protected under
22 section 17.3. In addition, any person shall have the right to
23 receive the MSDS or a copy of the label for any chemical to
24 which he may have been exposed. Any information so requested
25 shall be supplied to the requestor at the cost to the department
26 of copying and mailing, with no additional charges. Physicians
27 shall be able to obtain a list of active and inactive
28 ingredients when pesticide poisoning has occurred. The list will
29 be provided to facilitate treatment and not to violate trade
30 secret information.

1 Section 7. This act shall take effect in 60 days.