

JAN 24 2007

A BILL FOR AN ACT

RELATING TO PESTICIDES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature determines that it shall be the
2 policy of the State to:

- 3 (1) Reduce or eliminate the use of pesticide applications
4 by various departments; and
5 (2) Develop and implement integrated pest management
6 policies in state and county agencies.

7 SECTION 2. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 **"CHAPTER**

11 **STATE PESTICIDE MANAGEMENT PROGRAM**

12 § -1 **Definitions.** As used in this chapter, unless the
13 content clearly requires otherwise:

14 "Department" means any state or county agency or office.

15 "Integrated pest management" means a pest management method
16 that:



1 (1) Combines biological, cultural, physical, and chemical
2 tools to minimize health, environmental, and financial
3 risks;

4 (2) Uses extensive knowledge about pests, such as
5 infestation thresholds, life histories, environmental
6 requirements, and natural enemies to complement and
7 facilitate biological and other natural control of
8 pests; and

9 (3) Uses the least toxic synthetic pesticides only as a
10 last resort to controlling pests.

11 "Pest" means any insect, rodent, nematode, fungus, weed, or
12 any other form of terrestrial or aquatic plant or animal life or
13 virus, bacterium, or any other microorganism, except viruses,
14 bacterium, or any other microorganisms on or in living humans or
15 other living animals, that the department of agriculture
16 declares to be a pest.

17 "Pesticide" means:

18 (1) Any substance or mixture of substances intended for
19 preventing, destroying, repelling, or mitigating any
20 pest;

21 (2) Any substance or mixture of substances intended for
22 use as a plant regulator, defoliant, or desiccant; and



1 (3) Any substance or mixture of substances that may infest
2 or be detrimental to vegetation, humans, animals, or
3 households, or be present in any agricultural or
4 nonagricultural environment.

5 "Toxicity category I pesticide" means any pesticide that
6 meets United States Environmental Protection Agency criteria for
7 toxicity category I under the Code of Federal Regulations.

8 § -2 **Toxicity category I pesticides.** Effective July 1,
9 2007, no department shall use:

- 10 (1) Any toxicity category I pesticide;
- 11 (2) Any pesticide containing a chemical identified by the
12 State as a chemical known to cause cancer or
13 reproductive toxicity; and
- 14 (3) Any pesticide classified as a human carcinogen,
15 probable human carcinogen, or possible human
16 carcinogen by the United States Environmental
17 Protection Agency, Office of Prevention, Pesticides,
18 and Toxic Substances.

19 § -3 **Reduction in use of pesticides.** By January 1,
20 2008, any department that uses one or more pesticides, other
21 than the pesticides subject to the ban under section -2,
22 shall reduce by fifty per cent the cumulative volume of the



1 pesticides that it used in calendar year 2006. By January 1,
2 2010, any department that uses one or more pesticides, other
3 than the pesticides subject to the ban under section -2,
4 shall reduce by one hundred per cent the cumulative volume of
5 the pesticides that it used in calendar year 2006, except for
6 those pesticides that the director of health has reviewed and
7 approved for use for purposes of protection of public safety or
8 public health.

9 **§ -4 Notice of pesticide use.** (a) Except as provided
10 in subsection (b), not later than one hundred twenty days after
11 the effective date of this Act, any department using any
12 pesticide shall comply with the following notification
13 procedures:

- 14 (1) Signs shall be posted at least four days before
15 application of the pesticide and remain posted at
16 least four days after application of the pesticide;
- 17 (2) Signs shall be posted:
- 18 (A) At every entry point where the pesticide is
19 applied, if the pesticide is applied in an
20 enclosed area; and



1 (B) In highly visible locations around the perimeter
2 of the area where the pesticide is applied, if
3 the pesticide is applied in an open area; and

4 (3) Signs shall contain the name and active ingredient of
5 the pesticide, target pest, date of pesticide use,
6 signal word indicating the toxicity category of the
7 pesticide, date for re-entry to the area treated, and
8 name and contact number for the county department
9 responsible for the pesticide application.

10 (b) A department shall not be required to post signs in
11 accordance with subsection (a) in right of way locations that
12 the general public does not use for recreational purposes;
13 provided that each department that uses pesticides in right of
14 way locations shall develop and maintain a public access
15 telephone number about pesticide applications in the right of
16 way areas. The public access number shall provide the following
17 information regarding any pesticide that will be applied within
18 the next four days or has been applied within the last four
19 days:

- 20 (1) Description of the area of the pesticide application;
21 (2) Name and active ingredient of the pesticide;
22 (3) Target pest;



- 1 (4) Date of pesticide use;
- 2 (5) Signal word indicating the toxicity category of the
- 3 pesticide;
- 4 (6) Re-entry date for the area treated; and
- 5 (7) Name and contact number for the department responsible
- 6 for the pesticide application.

7 Information about the public access telephone number shall be
8 posted in a public location at the department.

9 § -5 **Development and implementation of integrated pest**
10 **management policy.** (a) Any department that uses pesticides
11 shall develop and implement an integrated pest management
12 policy.

13 (b) The department of health shall develop and implement
14 integrated pest management policies that emphasize the least
15 toxic alternatives to pesticides to assist departments in
16 preparation of their integrated pest management policy. The
17 integrated pest management policy shall:

- 18 (1) Identify resources the department has and those it
- 19 will need to implement the policy, including personnel
- 20 trained in integrated pest management practices; and
- 21 (2) Identify the actions the department is taking to
- 22 obtain any needed resources to implement the policy.



1 (c) The chairperson of the board of agriculture shall
2 assist departments in implementing integrated pest management.

3 (d) Each department required to develop an integrated pest
4 management policy shall submit a draft of its policy to the
5 department of health. The department of health shall review and
6 may make recommendations on the draft integrated pest management
7 policy regarding conformity with long-term plans for
8 environmental sustainability adopted by the department of
9 health.

10 (e) No later than December 1, 2007, and quarterly
11 thereafter, departments that use pesticides shall report to the
12 department of health on the status of their efforts to adopt and
13 implement integrated pest management policies. The department
14 of health shall provide an annual report to the legislature on
15 the status of department efforts.

16 § -6 **Recordkeeping of pesticide usage.** Each department
17 that uses pesticides shall keep records of pesticide usage.
18 Each record shall include the following information:

- 19 (1) The pesticide used;
20 (2) The site of the pesticide application;
21 (3) The date the pesticide was used;
22 (4) The name of the pesticide applicator; and



1 (5) The application equipment used.

2 Records shall be made available to the public upon request in
3 accordance with section 92-21.

4 § -7 Exemptions. This chapter shall not apply to the
5 use of any pesticide for the purpose of maintaining or improving
6 water quality at drinking water treatment plants, wastewater
7 treatment plants, reservoirs, and related collection,
8 distribution, and treatment facilities."

9 SECTION 3. Section 149A-31, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§149A-31 Prohibited acts. No person shall:

12 (1) Use any pesticide in a manner inconsistent with its
13 label, except that it shall not be unlawful to:

14 (A) Apply a pesticide at any dosage, concentration,
15 or frequency less than that specified on the
16 label or labeling; provided that the efficacy of
17 the pesticide is maintained and further provided
18 that, when a pesticide is applied by a commercial
19 applicator, the deviation from the label
20 recommendations must be with the consent of the
21 purchaser of the pesticide application services;



- 1 (B) Apply a pesticide against any target pest not
2 specified in the labeling if the application is
3 to a crop, animal, or site specified on the label
4 or labeling; provided that the label or labeling
5 does not specifically prohibit the use on pests
6 other than those listed on the label or labeling;
- 7 (C) Employ any method of application not prohibited
8 by the labeling;
- 9 (D) Mix a pesticide or pesticides with a fertilizer
10 when such mixture is not prohibited by the label
11 or labeling; or
- 12 (E) Use in a manner determined by rule not to be an
13 unlawful act;
- 14 (2) Use, store, transport, or discard any pesticide or
15 pesticide container in any manner which would have
16 unreasonable adverse effects on the environment;
- 17 (3) Use or apply restricted use pesticides unless the
18 person is a certified pesticide applicator or under
19 the direct supervision of a certified pesticide
20 applicator with a valid certificate issued pursuant to
21 rules adopted under section 149A-33(1);



- 1 (4) Use or apply pesticides in any manner that has been
- 2 suspended, canceled, or restricted pursuant to section
- 3 149A-32.5;
- 4 (5) Falsify any record or report required to be made or
- 5 maintained by rules adopted pursuant to this chapter;
- 6 ~~[or]~~
- 7 (6) Fill with water, through a hose, pipe or other similar
- 8 transmission system, any tank, implement, apparatus,
- 9 or equipment used to disperse pesticides, unless the
- 10 tank, implement, apparatus, equipment, hose, pipe or
- 11 other similar transmission system is equipped with an
- 12 air gap or a reduced-pressure principle backflow
- 13 device meeting the requirements under section 340E-2
- 14 and the rules adopted thereunder~~[or]~~; or
- 15 (7) Apply any pesticide on a public school property or
- 16 playground, unless the person complies with the
- 17 following notification procedures:
- 18 (A) Signs shall be posted:
- 19 (i) At least forty-eight hours before
- 20 application of the pesticide and remain
- 21 posted at least forty-eight hours after
- 22 application of the pesticide;



1 (ii) At every entry point where the pesticide is
2 applied if the pesticide is applied in an
3 enclosed area; and

4 (iii) In highly visible locations around the
5 perimeter of the area where the pesticide is
6 applied, if the pesticide is applied in an
7 open area; and

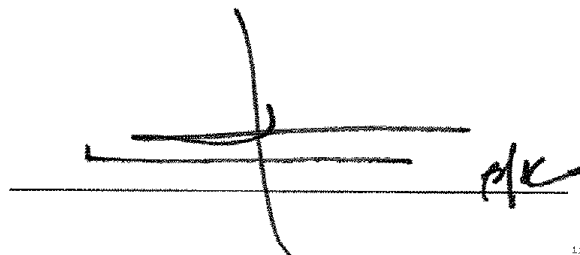
8 (B) Signs shall contain the name and active
9 ingredient of the pesticide, target pest, date of
10 pesticide use, signal word indicating the
11 toxicity category of the pesticide, date for
12 re-entry to the area treated, name and contact
13 number for the department responsible for the
14 application, and a symbol indicating danger, such
15 as the skull and crossbones."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval,
19 provided that section 3 shall take effect one hundred twenty
20 days after its approval.

21

INTRODUCED BY:





Report Title:

Pesticides; Prohibitions; Warnings; Playgrounds

Description:

Establishes integrated pest management policies to prohibit the use of toxicity category I pesticides. Requires the posting of signs when pesticide is applied on school grounds or a playground.

