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# A BILL FOR AN ACT

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RELATING TO ENVIRONMENTAL PROTECTION.

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

1       SECTION 1. Chapter 149A, Hawaii Revised Statutes, is  
2       amended by adding a new part to be appropriately designated and  
3       to read as follows:

4       **"PART       . PESTICIDE REPORTING AND REGULATION PROGRAM**

5       **§149A-A Definitions.** As used in this part:       .

6       "Normal school hours" means Monday through Friday from  
7       7:00 a.m. until 4:00 p.m., excluding days when classes are not  
8       in session.

9       "School" means any public or private preschool,  
10      kindergarten, elementary, intermediate, middle, secondary, or  
11      high school.

12      **§149A-B Post-application reporting of pesticide use.** (a)  
13      Beginning January 1, 2019, every user of restricted use  
14      pesticides shall be subject to the requirement to submit to the  
15      department, for departmental use, an annual report of all use of  
16      restricted use pesticides as provided in this section.

17      (b) No later than thirty days following the end of each  
18      calendar year, every entity that uses restricted use pesticides



1 shall provide to the department a report of all restricted use  
2 pesticides used during the preceding calendar year.

3 (c) The department shall adopt rules pursuant to chapter  
4 91 requiring that the annual reports include the following  
5 information:

6 (1) A listing, by federal and state registrations or  
7 permit numbers, commercial product names, and active  
8 ingredients, of all restricted use pesticides used;

9 (2) The total quantities used for each restricted use  
10 pesticide;

11 (3) A general description of the geographic location,  
12 including, at a minimum, the tax map key number, at  
13 which the restricted use pesticides were used; and

14 (4) The date on which the restricted use pesticide  
15 application occurred.

16 **§149A-C Public reports; contents.** The department shall  
17 produce a summary, for public disclosure, by county, that  
18 includes:

19 (1) The total quantities used, by federal and state  
20 registrations or permit numbers, commercial product



1 names, and active ingredients, for each restricted use  
2 pesticide used; and

3 (2) The amount of area in the county in which the  
4 restricted use application occurred.

5 **§149A-D Buffer zones.** Beginning January 1, 2019, no  
6 person shall apply a restricted use pesticide on or within one  
7 hundred feet of a school property during normal school hours;  
8 provided that this section shall not apply to whole structure  
9 fumigation; provided further that if this section is determined  
10 to conflict with any pesticide application information listed on  
11 the pesticide label, the more restrictive provision shall apply.

12 **§149A-E Rules.** The department shall adopt rules pursuant  
13 to chapter 91 to implement this part."

14 SECTION 2. Section 149A-13.5, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending subsections (a) and (b) to read:

17 "(a) There is established within the treasury of the  
18 State, a pesticide use revolving fund. The fund shall be  
19 administered by the department for the purposes of this section.  
20 The fund shall consist of:



(1) Licensing and registration fees and charges collected by the department under section 149A-13(b);

(2) All fees collected by the department through the collection of training fees in accordance with subsection (c); ~~and~~

(3) Funds appropriated for the pesticide subsidy program established under Act 105, Session Laws of Hawaii 2014~~[-]~~; and

(4) All penalties and fines collected by the department under section 149A-41.

(b) Moneys in the pesticide use revolving fund shall be expended by the department ~~[to]~~:

(1) To support the pesticide program's registration and licensing, certification and education, and compliance monitoring activities~~[-. The department shall also expend revolving fund moneys on the establishment of]~~ ;

(2) To establish pesticide training workshops~~[-]~~ and educational programs~~[-, development of]~~ ;

(3) To develop integrated pest management strategies, the pesticide subsidy program created under Act 105, Session Laws of Hawaii 2014, and other services for



1 pesticide users such as the agricultural pest control  
2 industry, the structural pest control industry, and  
3 consumer users of pesticides, which provide pesticide  
4 instruction in areas including but not limited to the  
5 collection, disposal, and recycling of pesticide  
6 containers; and

7 (4) For all other pesticide services deemed necessary by  
8 the department.

9 Moneys from the revolving fund may be used for personnel,  
10 services, materials, and equipment for the purposes of this  
11 section[~~; provided that the use of moneys from the revolving~~  
12 ~~fund for personnel costs shall be limited to those employees~~  
13 ~~under the registration and education section of the department's~~  
14 ~~pesticides branch~~].

15 Moneys expended by the department from the pesticide use  
16 revolving fund for training workshops, educational programs, and  
17 other services for the agricultural pest control industry, the  
18 structural pest control industry, and consumer groups shall be  
19 expended in a manner that appropriately addresses the needs of  
20 each category of pesticide user."

21 2. By amending subsection (e) to read:



1       "(e) All unobligated, unencumbered, or unexpended funds  
2 remaining in the fund in excess of [~~\$250,000~~] \$1,000,000 at the  
3 close of each fiscal year shall lapse to the state general  
4 fund."

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

7       "**§149A-31 Prohibited acts.** No person shall:

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

10       (A) Apply a pesticide at any dosage, concentration,  
11 or frequency less than that specified on the  
12 label or labeling; provided that the efficacy of  
13 the pesticide is maintained [~~and further~~];  
14 provided further that[~~7~~] when a pesticide is  
15 applied by a commercial applicator, the deviation  
16 from the label recommendations [~~must~~] shall be  
17 with the consent of the purchaser of the  
18 pesticide application services;

19       (B) Apply a pesticide against any target pest not  
20 specified in the labeling if the application is  
21 to a crop, animal, or site specified on the label



1 or labeling; provided that the label or labeling  
2 does not specifically prohibit the use on pests  
3 other than those listed on the label or labeling;

4 (C) Employ any method of application not prohibited  
5 by the labeling;

6 (D) Mix a pesticide or pesticides with a fertilizer  
7 when [~~such~~] the mixture is not prohibited by the  
8 label or labeling; or

9 (E) Use in a manner determined by rule not to be an  
10 unlawful act;

11 (2) Use, store, transport, or discard any pesticide or  
12 pesticide container in any manner [~~which~~] that would  
13 have unreasonable adverse effects on the environment;

14 (3) Use or apply restricted use pesticides unless the  
15 person is a certified pesticide applicator or under  
16 the direct supervision of a certified pesticide  
17 applicator with a valid certificate issued pursuant to  
18 rules adopted under section 149A-33(1); provided that  
19 it shall be prohibited to use or apply a restricted  
20 use pesticide for structural pest control uses for a  
21 fee or trading of services, unless the user or



1 applicator is a pest control operator or is employed  
2 by a pest control operator licensed under chapter  
3 460J;

4 (4) Use or apply pesticides in any manner that has been  
5 suspended, canceled, or restricted pursuant to section  
6 149A-32.5;

7 (5) Falsify any record or report required to be made or  
8 maintained by rules adopted pursuant to this chapter;  
9 [ex]

10 (6) Fill with water, through a hose, pipe, or other  
11 similar transmission system, any tank, implement,  
12 apparatus, or equipment used to disperse pesticides,  
13 unless the tank, implement, apparatus, equipment,  
14 hose, pipe, or other similar transmission system is  
15 equipped with an air gap or a reduced-pressure  
16 principle backflow device meeting the requirements  
17 under section 340E-2 and the rules adopted  
18 thereunder[-]; or

19 (7) Beginning January 1, 2019, use or apply any pesticide  
20 containing chlorpyrifos as an active ingredient;  
21 provided that:





1           (A) The department shall grant to any person, upon  
2           request, a temporary permit authorizing the  
3           person, until December 31, 2022, to use or apply  
4           a pesticide containing chlorpyrifos as an active  
5           ingredient; and

6           (B) Any person who violates this paragraph shall be  
7           subject to a penalty pursuant to section  
8           149A-41."

9           SECTION 4. No later than July 1, 2019, the department of  
10          agriculture shall develop a pesticide drift monitoring study to  
11          evaluate pesticide drift at three schools within the State. The  
12          department of agriculture shall submit a report of its findings  
13          and recommendations to the legislature no later than twenty days  
14          prior to the convening of the regular session of 2020.

15          SECTION 5. There is appropriated out of the general  
16          revenues of the State of Hawaii the sum of \$300,000 or so much  
17          thereof as may be necessary for fiscal year 2018-2019 for the  
18          pesticide drift monitoring study to be developed pursuant to  
19          section 4 of this Act.

20          The sum appropriated shall be expended by the department of  
21          agriculture for the purposes of this Act.



1       SECTION 6. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$105,648 or so much  
3 thereof as may be necessary for fiscal year 2018-2019 to be  
4 expended for the purposes of this Act, including for the  
5 establishment of two full-time equivalent (2.0 FTE) positions in  
6 the department of agriculture.

7       The sum appropriated shall be expended by the department of  
8 agriculture for the purposes of this Act.

9       SECTION 7. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$300,000 or so much  
11 thereof as may be necessary for fiscal year 2018-2019 for  
12 outreach and education to effectuate this Act.

13       The sum appropriated shall be expended by the department of  
14 agriculture for the purposes of this Act.

15       SECTION 8. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18       SECTION 9. If any provision of this Act, or the  
19 application thereof to any person or circumstance, is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 10. In codifying the new sections added by section  
4 1 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 11. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2018.



**Report Title:**

Mandatory Pesticide Disclosure; Pesticide Reporting and Regulation Program; Chlorpyrifos; Pesticide Use Revolving Fund; Pesticide Drift Monitoring Study; Appropriation

**Description:**

Beginning 1/1/2019, requires all users of restricted use pesticides to be subject to a requirement to report on their use of restricted use pesticides to the Department of Agriculture (DOA). Prohibits the use of a restricted use pesticide on or within 100 feet of a school during normal school hours beginning on 1/1/2019. Prohibits the use of pesticides containing chlorpyrifos as an active ingredient beginning 1/1/2019; provided that the DOA shall grant any person, upon request, a temporary permit allowing the use of pesticides containing chlorpyrifos through 12/31/2022. Provides for the deposit into the pesticide use revolving fund of all penalties and fines collected under the Hawaii Pesticides Law. Revises the ceiling and use of the pesticide use revolving fund. Requires the DOA to develop a pesticide drift monitoring study no later 7/1/2019. Appropriates general funds for the pesticide drift monitoring study, establishment of two full-time equivalent positions, and outreach and education. (CD1)

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