
A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1 SECTION 1. The legislature finds that pesticide abuse is
2 harmful to public health. A study published in the medical
3 journal *The Lancet Neurology* in March 2014 found that the
4 neurotoxin chlorpyrifos led to developmental disabilities in
5 children. Similarly, the herbicides atrazine and paraquat are
6 banned in the European Union because of their adverse impacts on
7 people's well-being. Atrazine is known to contaminate
8 groundwater supplies, while paraquat has been linked to the
9 onset of Parkinson's disease.

10 The legislature further finds that Act 45, Session Laws of
11 Hawaii 2018, established additional regulations intended to
12 address pesticide abuse in Hawaii, including requiring all users
13 of restricted use pesticides to report on their use of
14 restricted use pesticides to the department of agriculture,
15 prohibiting the use of a restricted use pesticide on or within
16 one hundred feet of a school during normal school hours, and
17 prohibiting the use of pesticides containing chlorpyrifos as an



1 active ingredient. However, under state law, commercial and
 2 private pesticide applicators who violate pesticide regulations
 3 may receive a written warning upon their first offense,
 4 regardless of whether or not the offense resulted in injury or
 5 illness.

6 Accordingly, the purpose of this Act is to protect public
 7 health by:

- 8 (1) Deleting the provision authorizing the issuance of a
 9 written warning notice for a first violation of
 10 Hawaii's pesticide laws;
- 11 (2) Increasing the administrative penalties; and
- 12 (3) Enhancing the criminal penalties for violations
 13 involving bodily injury.

14 SECTION 2. Section 149A-41, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "~~§149A-41~~ Violations [~~7, warning notice7~~] and penalties.

17 (a) [~~Warning notice7~~] Scope. Any person who violates this
 18 chapter or any rule issued under this chapter [~~may upon the~~
 19 ~~first violation be issued a written warning notice citing the~~
 20 ~~specific violation and necessary corrective action7~~] shall be



1 subject to the administrative and criminal penalties prescribed
2 by this section.

3 (b) Administrative penalties.

4 (1) In general, any registrant, commercial applicator,
5 wholesaler, dealer, retailer, or other distributor who
6 violates any provision of this chapter may be assessed
7 an administrative penalty by the board of not more
8 than ~~[\$5,000]~~ \$10,000 for each offense;

9 (2) Any private applicator or other person not included in
10 paragraph (1) who violates any provision of this
11 chapter relating to the use of pesticides while on
12 property owned or rented by that person or the
13 person's employer [~~, subsequent to receiving a written~~
14 ~~warning from the department or following a citation~~
15 ~~for a prior violation,~~] may be assessed an
16 administrative penalty by the board of not more than
17 ~~[\$1,000]~~ \$5,000 for each offense. Any private
18 applicator or other person not included in paragraph
19 (1) who violates any provision of this chapter
20 relating to licensing, transport, sale, distribution,
21 or application of a pesticide for commercial purposes



1 may be assessed an administrative penalty as provided
2 in paragraph (1);

3 (3) No administrative penalty shall be assessed unless the
4 person charged shall have been given notice and an
5 opportunity for a hearing on the specific charge in
6 the county of the residence of the person charged.
7 The administrative penalty and any proposed action
8 contained in the notice of finding of violation shall
9 become a final order unless, within twenty days of
10 receipt of the notice, the person or persons charged
11 make a written request for a hearing. In determining
12 the amount of penalty, the board shall consider the
13 appropriateness of the penalty to the size of the
14 business of the person charged, the effect on the
15 person's ability to continue business, and the gravity
16 of the violation; and

17 (4) In case of inability to collect the administrative
18 penalty or failure of any person to pay all or such
19 portion of the administrative penalty as the board may
20 determine, the board shall refer the matter to the
21 attorney general, who shall recover the amount by



1 action in the appropriate court. For any judicial
2 proceeding to recover the administrative penalty
3 imposed, the attorney general need only show that
4 notice was given, a hearing was held or the time
5 granted for requesting a hearing has expired without
6 such a request, the administrative penalty was
7 imposed, and that the penalty remains unpaid.

8 (c) Criminal penalties.

9 (1) In general, any registrant, commercial applicator,
10 wholesaler, dealer, retailer, or other distributor who
11 knowingly violates any provision of this chapter shall
12 be guilty of a misdemeanor and shall on conviction be
13 fined not more than \$25,000, or imprisoned for not
14 more than one year, or both[-]; provided that if the
15 violation involves bodily injury, the violator shall
16 be guilty of a class C felony and shall be fined not
17 more than \$50,000 and imprisoned for not less than one
18 year.

19 (2) Any private applicator or other person not included in
20 paragraph (1) who knowingly violates any provision of
21 this chapter shall be guilty of a misdemeanor and



1 shall on conviction be fined not more than \$1,000, or
2 imprisoned for not more than one year, or both[-];
3 provided that if the violation involves bodily injury,
4 the violator shall be guilty of a class C felony and
5 shall be fined not more than \$25,000 and imprisoned
6 for not less than one year.

7 (3) Any person, who, with intent to defraud, uses or
8 reveals information relative to formulas of products
9 acquired under the authority of section 3, Federal
10 Insecticide, Fungicide, and Rodenticide Act (FIFRA),
11 as amended, shall be fined not more than \$10,000, or
12 imprisoned for not more than three years, or both.

13 (d) Liabilities. When construing and enforcing the
14 provisions of this chapter, the act, omission, or failure of any
15 officer, agent, or other person acting for or employed by any
16 person shall in every case be also deemed to be the act,
17 omission, or failure of such person as well as that of the
18 person employed.

19 (e) Definition. For purposes of this section, "bodily
20 injury" has the same meaning as in section 707-700."



H.B. NO. 1065

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Pesticides; Penalties

Description:

Deletes the provision authorizing the issuance of a written warning notice for a first violation of Hawaii's pesticide laws. Increases the administrative penalties. Enhances the criminal penalties for violations involving bodily injury.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

