

A Bill for An Act Relating to the Hawaii Pesticides Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 149A, Hawaii Revised Statutes, is amended to read:

**“CHAPTER 149A
HAWAII PESTICIDES LAW
PART I. GENERAL PROVISIONS**

Sec. 149A-1 Short title. This chapter may be cited as the “Hawaii Pesticides Law.”

Sec. 149A-2 Definitions. As used in this chapter, unless the content clearly requires otherwise:

- (1) “Active ingredient” means:
 - (A) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, or ingredient which will prevent, destroy, repel, or mitigate any pests;
 - (B) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;
 - (C) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and
 - (D) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissues.
- (2) “Adulterated” means any pesticide if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.
- (3) “Animal” means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.
- (4) “Board” means board of agriculture.
- (5) “Certified pesticide applicator” means any individual who is certified under section 149A-33(1) as authorized to use or supervise the use of any pesticide which is classified for restricted use.
- (6) “Chairman” means chairman of the board of agriculture.
- (7) “Commercial pesticide applicator” means any certified pesticide applicator, whether or not he is a private pesticide applicator with respect to some uses, who uses or supervises the use of any pesticide

- which is classified for restricted use for any purpose or on any property other than as provided by section 149A-2(28).
- (8) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
 - (9) "Department" means department of agriculture.
 - (10) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.
 - (11) "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any form of plant or animal life (other than man and other than bacteria, virus, or other micro-organism on or in living man or other animals); but not including equipment used for application of pesticides when sold separately therefrom.
 - (12) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.
 - (13) "Fungi" means all nonchlorophyll-bearing thallophytes including rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or living in man or other animals and those on or in processed foods, beverages, or pharmaceuticals.
 - (14) "General use pesticide" means a pesticide other than one designated as restricted pesticide.
 - (15) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of Interior under Public Law 91-135.
 - (16) "Inert ingredient" means an ingredient which is not an active ingredient.
 - (17) "Ingredient statement" means:
 - (A) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; and
 - (B) In the case the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.
 - (18) "Insect" means invertebrate animals belonging to the class insecta including beetles, bugs, bees, flies, and other allied classes of arthropods, including spiders, mites, ticks, centipedes, and wood lice.
 - (19) "Label" means the written, printed, or graphic matter, on or attached to the pesticide or device, or any of its containers or wrappers.
 - (20) "Labeling" means all labels and other written, printed, or graphic matter accompanying the pesticide or device at any time or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environ-

mental Protection Agency, the United States Departments of Agriculture and the Interior, the United States Department of Health, Education, and Welfare, state experiment stations, state agricultural colleges, or other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

- (21) "License" means the process of being allowed to register a pesticide product pursuant to provisions of this chapter. "Licensee" means a person who has been licensed to register a product pursuant to provisions of this chapter.
- (22) "Misbranded" includes any of the following:
- (A) The labeling of the pesticide bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - (B) The pesticide is contained in a package or other container or wrapping which does not conform to the standards established by federal law;
 - (C) The pesticide is an imitation of, or is offered for sale under the name of, another pesticide;
 - (D) The label does not bear the federal registration number assigned to each establishment in which it was produced;
 - (E) Any word, statement, or other information required by or under authority of the federal law to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
 - (F) The labeling accompanying the pesticide does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, are adequate to protect health and the environment;
 - (G) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under federal law, is adequate to protect health and the environment;
 - (H) The label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this section if:
 - (i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which

- is presented or displayed under customary conditions of purchase; and
- (ii) The ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the department;
- (I) The labeling does not contain a statement of the use classification under which the product is registered;
 - (J) There is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing:
 - (i) The name and address of the producer, registrant or person for whom produced;
 - (ii) The name, brand, or trademark under which the pesticide is sold;
 - (iii) The net weight or measure of the content; provided that the United States Environmental Protection Agency Administrator may permit reasonable variations; and
 - (iv) When required by federal regulations to effectuate the purposes of this law, the registration number assigned to the pesticide under federal law, and the use classification; and
 - (K) The pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this law:
 - (i) The skull and crossbones;
 - (ii) The word "poison" prominently in red on a background of distinctly contrasting color; and
 - (iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.
- (23) "Nematode" means invertebrate animals of the phylum nemathelminthes and the class nematoda including unsegmented round worms with elongated fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts.
- (24) "Person" means any individual, firm, corporation, association, or partnership, or any organized group of persons whether incorporated or not.
- (25) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which the board declares to be a pest.
- (26) "Pesticide" means:
- (A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
 - (B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- (27) "Plant regulator" means any substance or mixture of substances,

intended through physiological action, for accelerating or-retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

- (28) "Private pesticide applicator" means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person.
- (29) "Producer" means any person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. "Produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device.
- (30) "Protect health and the environment" or "protection of health and environment" means protection against unreasonable adverse effects on the environment.
- (31) "Restricted pesticide" means:
- (A) A pesticide or pesticide use classified by the Administrator, EPA, for use by certified applicators or competent persons under their direct supervision and so designated on its label; or
 - (B) A pesticide or pesticide use classified by the board for use by certified applicators or competent persons under their direct supervision.
- (32) "Registrant" means the person registering or licensing any pesticide pursuant to this chapter.
- (33) "Sell or distribute" means to distribute, solicit, sell, offer for sale, hold for sale, transport, or deliver for transportation in intrastate commerce or between points within the State or through any point outside the State.
- (34) "Under the direct supervision of a certified applicator" means unless otherwise prescribed by its labeling; a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.
- (35) "Unreasonable adverse effects on the environment" means any injury to man or any unreasonable adverse effects on environmental values, taking into account the public interest, including benefits from the use of the insecticide.
- (36) "Weed" means any plant which grows where not wanted.

Sec. 149A-3 Delegation of duties. All authority vested in the board or chairman by virtue of this chapter may with like force and effect be exer-

cised by such employees of the department as the board or chairman may from time to time designate for the purpose.

Sec. 149A-4 Effect of chapter on department of health. Nothing in this chapter shall be construed to amend or alter the functions, duties, and powers of the department of health relative to chapters 321, 322, 328, and 330.

PART II. PESTICIDE LICENSING AND SALE

Sec. 149A-11 Prohibited acts. (a) Except as otherwise exempted in section 149A-12, it shall be unlawful for any person to distribute, solicit, sell, offer for sale, hold for sale, transport, deliver for transportation, or receive and having so received, deliver or offer to deliver to any person in intrastate commerce or between points within this State through any point outside this State any of the following:

- (1) Any pesticide which is not licensed pursuant to section 149A-13, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its licensing, or if the composition of a pesticide differs from its composition as represented in connection with its licensing; provided that in the discretion of the department, a change in the labeling or formula of a pesticide may be made within a licensing period without requiring an additional licensing of the product.
- (2) Any pesticide unless it is in the licensee's or the manufacturer's unbroken immediate container, and there is affixed to the container, and to the outside container or wrapper of the retail package, if any, through which the required information on the immediate container cannot be clearly read, a label bearing such information pursuant to section 149A-15.
- (3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 149A-19, unless the label bears, in addition to any other matter required by this chapter:
 - (A) A symbol of the skull and crossbones;
 - (B) The word "POISON" prominently, in red, on a background of distinctly contrasting color; and
 - (C) A statement of emergency medical treatment or an antidote appropriate for the pesticide.
- (4) The pesticides containing any of the ingredients commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate, unless they have been distinctly colored or discolored or any other white powder pesticide which the board, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, requires to be distinctly colored or discolored, unless it has been so colored or discolored pursuant to section 149A-16.

- (5) Any pesticide which is adulterated or misbranded.
- (6) Any pesticide or device that is an imitation of another pesticide or device.
- (7) Any restricted pesticides unless the person has a license issued in accordance with section 149A-17.
- (8) Any restricted pesticides to persons other than a certified pesticide applicator or any uncertified personnel under his supervision, or a licensed dealer, wholesaler, or retailer.
- (b) It shall be unlawful to:
 - (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless such action is taken with the approval of the department to correct an improper label or labeling under section 24(c), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.
 - (2) Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter.
 - (3) Use for a person's own advantage or to reveal any information relative to formulas of products acquired in the administration of this chapter, to persons other than to the chairman or proper officials or employees of the State or the federal government, or the courts of this State or the federal government in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes.
 - (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained an annual license from the department.
 - (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides to any person other than a certified pesticide applicator.

Sec. 149A-12 Exemptions. (a) The prohibitions of section 149A-11(a) shall not apply to:

- (1) Any carrier while lawfully engaged in transporting a pesticide within this State, if the carrier, upon request of the chairman or his duly designated officer or employee permits such officer or employee to copy all records showing the transactions in and movement of the pesticide or device;
- (2) Public officials of the State and the federal government engaged in the performance of their official duties in administering state or federal pesticide law or regulation;
- (3) The manufacturer or shipper of a pesticide intended only for experimental use:
 - (A) By or under the supervision of an agency of the State or of the federal government authorized by law to conduct research in the field of pesticides;
 - (B) If the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For Experiment Use Only—Not to

be Sold" together with the manufacturer's name and address;

- (4) Any person who establishes a guaranty signed by, and containing the name and address of, the licensee or person residing in the United States from whom he purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully licensed at the time of sale and delivery to him and it complies with the other requirements of FIFRA, as amended, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of FIFRA, as amended, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of FIFRA, as amended; and
- (5) Any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession.

(b) No article shall be deemed in violation of this chapter when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this chapter shall apply.

Sec. 149A-13 Procedure for licensing pesticides. (a) Any pesticide which is sold, offered for sale, or distributed, within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be licensed by the board; provided that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide, may be licensed as a single pesticide, and additional names and labels shall be added by supplemental statements during the current period of licensing. The licensee shall file with the department a statement including:

- (1) The name and address of the licensee and the name and address of the person whose name will appear on the label, if other than the licensee;
- (2) The name of the pesticide;
- (3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use; and
- (4) If requested by the department a full description of the tests made and the results thereof upon which the claims are based.

(b) The licensee shall pay a minimum annual fee of \$10 for each pesticide licensed. Licensing fee may be increased from time to time by regulations but such increases shall not be in excess of \$5 for any one year. The license shall expire on December 31 of each year and shall be renewed annually. In the case of renewal of license, a statement shall be required only with respect to information which is different from that furnished when the pesticide was licensed or last relicensed. All fees collected shall be deposited in the general fund of the State.

(c) The department, whenever it deems necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide. If it appears to the department that the composition of the pesticide is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of section 149A-15, the department shall license the pesticide.

(d) Notwithstanding any other provision of this chapter, licensing of a pesticide is not required in the case of a pesticide shipped from one plant within this State to another plant within this State when both plants are operated by the same person.

Sec. 149A-14 Refusal, cancellation, or suspension of the license. (a) The department may refuse to license a pesticide when it has been determined that:

- (1) The pesticide or its labeling does not comply with this chapter or the regulations promulgated thereunder; or
- (2) The licensee fails to comply with the licensing procedures set forth by regulations; or
- (3) The claims, representations, or other statements on the label are false or misleading; or
- (4) The proposed use would result in unreasonable adverse effect on the environment.

(b) To protect the health and environment, the department may, after hearing, cancel the license of a pesticide. Such cancellation shall be made after the department has determined that the continued use of the pesticide would result in unreasonable adverse effects on the environment.

(c) If the department determines that action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, the department may suspend the license of a pesticide immediately. The suspension order shall be in effect until the department issues its final order either cancelling or denying the cancellation of the license.

(d) The licensee shall be entitled to contest under chapter 91, the determinations of the department relative to refusing, cancelling, or suspending a pesticide license.

Sec. 149A-15 Labeling requirements. (a) Each container of pesticides shall bear thereon or attached thereto in a conspicuous place, a plainly written or printed label in the English language providing the following information:

- (1) Name, brand, or trade-mark under which the pesticide is sold or distributed;
- (2) Ingredient statement as specified by regulations;
- (3) Direction for use which if complied with will adequately protect the health and environment;
- (4) Warning or caution statement as specified by regulations;
- (5) Name and address of the manufacturer, registrant or person for whom manufactured;
- (6) Weight or measure of content;
- (7) The United States Environmental Protection Agency registration and establishment numbers; and

(8) Any other labeling requirement as prescribed under FIFRA, as amended.

Sec. 149A-16 Coloration of certain pesticides. (a) Pesticides known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate shall be distinctly colored as specified by regulation.

(b) The department may require the coloration of other pesticides that it determines to be necessary to protect the health and environment.

Sec. 149A-17 Sales, permit, and record. In addition to licensing requirements applicable to pesticides every person who sells or distributes restricted pesticides shall obtain an annual permit from the department. Conditions, procedures, and fees for permit shall conform to the regulations promulgated hereunder.

All persons permitted to sell restricted pesticides shall keep records of the individual sales of such pesticides. Records shall be kept at the principal place of business of the permittee for a period specified by rules and regulations and shall be available to the department on request.

Sec. 149A-18 Denial, suspension, or revocation of license. The department may deny issuance of a license to sell a restricted pesticide for reasonable cause. Any license issued pursuant to regulations adopted under section 149A-17(a) may be suspended or revoked by the department after due hearing, for violation of any condition of the permit or of any law or regulation pertaining to the sale of pesticides.

Any order made by the department for the suspension or revocation of a permit shall be in writing and shall set forth the reasons for the suspension or revocation.

The action of the department in suspending or in revoking a permit may be reviewed in the manner provided by chapter 91.

Sec. 149A-19 Determination; rules and regulations; uniformity. (a) The board shall after having afforded interested and affected parties an opportunity to be heard and, in instances in which human health is affected, after consultation with the director of health, make and adopt regulations:

- (1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
- (2) To determine the pesticides which are highly toxic to man; to designate pesticides as restricted or general use; and to establish a system of control over the distribution and use of certain pesticides purchased by the consuming public;
- (3) To determine standards of coloring for pesticides, and to subject pesticides to the requirements of section 149A-16;
- (4) To establish procedures, conditions, and fees for the issuance of licenses for sale of restricted pesticides;
- (5) To establish fees for the licensing of pesticides within the limitations of section 149A-13(b);
- (6) To establish procedures for the licensing of pesticides;
- (7) To establish procedures for the registration of pesticides under provisions of section 24(c), FIFRA, as amended;

(8) To establish procedures for the disposal of pesticides; and

(9) To establish procedures to issue experimental use permits under provisions of section 5 of FIFRA, as amended.

(b) The board shall, after public hearing, make and adopt appropriate rules and regulations for carrying out this chapter, including rules and regulations providing for the collection and examination of samples of pesticides or devices.

(c) The board shall, after public hearing, adopt such regulations, applicable to and in conformity with the primary standards established by this chapter, or as prescribed by FIFRA, as amended, with respect to pesticides.

Sec. 149A-20 Seizures; "stop-sale" and "removal from sale" orders.

(a) Any pesticide or device that is distributed, sold, offered for sale, transported, or delivered for transportation in violation of this chapter, may be seized. Any pesticide product or device seized hereunder shall, after entry of decree, be disposed of by destruction or sale as the court directs and the proceeds, if the pesticide product or device is sold, less legal costs, shall be paid to the general fund of the State; provided that the pesticide product or device shall not be sold contrary to this chapter; and provided that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide product or device shall not be disposed of unlawfully, the court may direct the pesticide product, or device to be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(b) The chairman or his authorized agent may issue and enforce a written or printed "stop-sale" or "removal from sale" order to withhold from sale any pesticide or device that is distributed, sold, offered for sale, transported, or delivered for transportation in violation of this chapter.

Sec. 149A-21 Enforcement. (a) If it appears that a pesticide or device fails to comply with this chapter, the department may refer the facts with a copy of the results of the analysis or the examination of the pesticide product or device to the appropriate governmental agency for prosecution. A warning notice shall be issued before prosecution proceedings are initiated.

(b) The governmental agency to which any violation is reported may cause appropriate proceedings to be instituted in the appropriate court without delay if so warranted.

(c) The department shall, by publication in such manner as it may prescribe, give notice of all judgments entered in actions instituted under this chapter.

Sec. 149A-22 Authority. The board shall have authority to adopt such rules and regulations as necessary consistent with section 5(f) and section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, to develop and implement state programs for registration of pesticides for special local needs and issuance of experimental use permits.

Sec. 149A-23 Cooperation. The department may cooperate with, and enter into agreements with, any other agency of the State or the federal government, or any agency thereof for the purpose of carrying out this chapter and securing uniformity of regulations.

PART III. PESTICIDE USE

Sec. 149A-31 Prohibited acts. No person shall:

- (1) Use any licensed pesticide in a manner inconsistent with its label;
- (2) Use, store, transport, or discard any pesticide or the containers of such pesticide in any manner which would have unreasonable adverse effect on the environment;
- (3) Use or apply restricted pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to regulations adopted under section 149A-33(1); or
- (4) Use or apply pesticides in any manner that has been banned pursuant to section 149A-32.
- (5) Falsify any record or report required to be made or maintained by regulations adopted pursuant to this chapter.

Sec. 149A-32 Banning of pesticides. In order to protect the public and the environment, the chairman, in consultation with advisory committee on pesticide and approval of the director of health, may ban the use of certain pesticides or specific uses of certain pesticides when such usage is deemed to have unreasonable adverse effects on the environment. The chairman shall take necessary action to cancel the registration or license of such banned pesticides or uses as provided in section 149A-14(b).

Sec. 149A-33 Rules and regulations. The department shall have the authority to carry out and effectuate the purpose of this chapter by rules and regulations, including but not limited to the following:

- (1) To establish procedures, conditions, and standards to certify persons for the use of restricted pesticides under section 4 of FIFRA, as amended;
- (2) To establish limitations and conditions for the application of pesticides by aircraft, power rigs, mist blowers, and other equipment;
- (3) To establish, as necessary, specific standards and guidelines which specify those conditions which constitute unreasonable adverse effect on the environment; and
- (4) To establish, as necessary, record keeping requirements for restricted pesticide use by commercial applicators.

Sec. 149A-34 Denial, suspension, or revocation of certificate. The department may deny issuance of certificate for reasonable cause. Any certificate issued pursuant to regulations adopted under section 149A-33(1) may be suspended or revoked by the department, after hearing, for violation of any condition of the certificate or of any law or regulation pertaining to the use of any restricted pesticide. Any order made by the department for the suspension or revocation of a certificate shall be in writing and shall set forth the reasons for the suspension or revocation. The action of the department in suspending, or in revoking a certificate may be reviewed in the manner provided by chapter 91.

Sec. 149A-35 Cooperation. The department is authorized and empowered to cooperate with and enter into agreements with any agency of the

State, the federal government, or any other agency for the purpose of carrying out this chapter. The University of Hawaii cooperative extension service and other educational agencies shall provide educational programs aimed at assisting users and prospective users of pesticides and shall solicit the aid of the department in providing technical assistance, and advice on the authorized use of pesticides.

Sec. 149A-36 Authority to inspect. The department or any authorized representative or employee of the department may enter upon any public or private property, according to law at any reasonable time to examine and inspect application methods and equipment, to examine and collect samples of plants, soil, and other materials, and to perform any other duty for the purpose of carrying out and effectuating the purposes of this chapter.

Sec. 149A-37 Exemptions. Exemption from this chapter may be granted by the department to the University of Hawaii and other state and federal agencies for experimental or research work directed toward obtaining knowledge of the characteristics and proper usage of unspecified or experimental pesticides. Research and experimental work conducted by private agencies with adequate research facilities may also be similarly exempted upon approval by the department. Approval must be in writing stating the specific exemptions and conditions.

PART IV. VIOLATIONS, WARNING NOTICE, AND PENALTY

Sec. 149A-41 Violations, warning notice, and penalty. (a) Any person who violates this chapter or any rule or regulation issued hereunder may upon the first violation be issued a written warning notice citing the specific violation and necessary corrective action.

(b) Any person who knowingly violates this chapter or any rule or regulation hereunder after receipt of a notice issued pursuant to subsection (a) shall be punished by a fine of not more than \$1,000.

PART V. ADVISORY COMMITTEE

Sec. 149A-51 Advisory committee. There shall be an advisory committee on pesticides composed of but not limited to the chairman, or his designated representative, who shall head the committee and one representative each from the department of health, department of land and natural resources, University of Hawaii agricultural experiment station, University of Hawaii cooperative extension service, State environmental organization, sugar industry, pineapple industry, livestock industry, Hawaii farm bureau federation, diversified crop industry, pesticide industry, structural pest control industry and three at-large members. Members of the advisory committee shall be appointed by the governor from a list of persons recommended by the respective agencies and industries in accordance with section 26-34. The committee shall advise and assist the department in developing or revising laws and regulations to carry out and effectuate the purposes of this chapter and in advising the department in pesticide problems.

Sec. 149A-52 Severability. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected.

Sec. 149A-53 Applicability of chapter 91. The board shall, in the administration of this chapter, conform to the provisions of chapter 91.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1975.)

*Edited accordingly.