



General Assembly

Substitute Bill No. 5236

February Session, 2004

* HB05236ENV 031604 *

AN ACT CONCERNING LAWN CARE PESTICIDES SALES AND STORAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-47 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 For purposes of this part, section 2 of this act, subsection (a) of
4 section 23-61a and sections 23-61b and 23-61f, as amended:

5 (a) "Active ingredient" means:

6 (1) In the case of a pesticide other than a plant regulator, defoliant,
7 or desiccant, an ingredient which will prevent, destroy, repel, or
8 mitigate any pest;

9 (2) In the case of a plant regulator, an ingredient which, through
10 physiological action, will accelerate or retard the rate of growth or rate
11 of maturation or otherwise alter the behavior of ornamental or crop
12 plants or the product thereof;

13 (3) In the case of a defoliant, an ingredient which will cause the
14 leaves or foliage to drop from a plant; and

15 (4) In the case of a desiccant, an ingredient which will artificially
16 accelerate the drying of plant tissue;

17 (b) "Adulterated" applies to any pesticide if:

18 (1) Its strength or purity falls below the professed standard of
19 quality as expressed on its labeling under which it is sold;

20 (2) Any substance has been substituted wholly or in part for the
21 pesticide; or

22 (3) Any valuable constituent of the pesticide has been wholly or in
23 part abstracted;

24 (c) "Animal" means all vertebrate and invertebrate species,
25 including but not limited to man and other mammals, birds, fish, and
26 shellfish;

27 (d) "Certified applicator" means any individual who is certified
28 under section 22a-54, as amended;

29 (e) "Private applicator" means a certified applicator who uses or
30 supervises the use of any pesticide, which is classified for restricted
31 use for the purpose of producing any agricultural commodity, on
32 property owned or rented by the applicator or the applicator's
33 employer or if applied without compensation other than trading of
34 personal services between producers of agricultural commodities on
35 the property of another person: A pesticide shall be construed to be
36 applied under the direct supervision of a private applicator if it is
37 applied by a competent person on property owned or rented by a
38 private applicator acting under the instructions and control of a
39 private applicator who is available if and when needed;

40 (f) "Commercial applicator" means any individual, whether or not
41 such individual is a private applicator with respect to some uses, who
42 uses or supervises the use of (1) any restricted use pesticides, or (2) any
43 pesticide on property not owned or rented by such individual or such
44 individual's employer;

45 (g) "Commissioner" means the Commissioner of Environmental
46 Protection;

47 (h) "Defoliant" means any substance or mixture of substances
48 intended for causing the leaves or foliage to drop from a plant, with or
49 without causing abscission;

50 (i) "Desiccant" means any substance or mixture of substances
51 intended for artificially accelerating the drying of plant tissue;

52 (j) "Device" means any instrument or contrivance which uses
53 pesticides and is intended for trapping, destroying, repelling, or
54 mitigating any pest or any other form of plant or animal life; but not
55 including equipment used for the application of pesticides when sold
56 separately therefrom;

57 (k) "Environment" includes the ecosystem of water, air, land, plants,
58 man and other animals, and the interrelationships which exist among
59 these;

60 (l) "Imminent hazard" means a situation which exists when the
61 continued use of a pesticide, during the time required for a
62 cancellation proceeding as provided in section 22a-52, would be likely
63 to result in unreasonable adverse effects on the environment or will
64 involve unreasonable hazard to the survival of a species declared
65 endangered by the Secretary of the Interior pursuant to the provisions
66 of 83 Stat. 275 (P.L. 91-135), as may be amended from time to time;

67 (m) "Inert ingredient" means an ingredient which is not active;

68 (n) "Ingredient statement" means a statement which contains the
69 name and percentage of each active ingredient, and the total
70 percentage of all inert ingredients, in the pesticide; and a statement of
71 the percentages of total and water soluble arsenic, calculated as
72 elementary arsenic, if any;

73 (o) "Insect" means any of the numerous small invertebrate animals
74 generally having the body more or less obviously segmented, for the
75 most part belonging to the class insecta, comprising six-legged, usually
76 winged forms, including, but not limited to, beetles, bugs, bees, flies,

77 and to other allied classes of arthropods whose members are wingless
78 and usually have more than six legs, including, but not limited to,
79 spiders, mites, ticks, centipedes, and wood lice;

80 (p) "Label" means the written, printed, or graphic matter on, or
81 attached to, the pesticide or device or any of its containers or
82 wrappers;

83 (q) "Labeling" means all labels and all other written, printed or
84 graphic matter, accompanying the pesticide or device or to which
85 reference is made on the label or in literature accompanying the
86 pesticide or device;

87 (r) A pesticide is misbranded if:

88 (1) Its labeling bears any statement, design, or graphic
89 representation relative thereto or to its ingredients which is false or
90 misleading in any particular;

91 (2) It is contained in a package or other container or wrapping
92 which does not conform to the standards established by 86 Stat. 979
93 (P.L. 92-516), as may be amended from time to time;

94 (3) It is an imitation of, or is offered for sale under the name of
95 another pesticide;

96 (s) "Microorganism" means any microscopic organism including but
97 not limited to alga, bacterium, fungus, and virus except those on or in
98 living man or other animals and those on or in processed food,
99 beverage or pharmaceuticals;

100 (t) "Nematode" means invertebrate animals of the phylum
101 nemathelminthes and class nematoda, that is, unsegmented round
102 worms with elongated, fusiform, or sac-like bodies covered with
103 cuticle and inhabiting soil, water, plants, or plant parts which may also
104 be called nemas or eelworms;

105 (u) "Person" means any individual, partnership, association,

106 corporation, limited liability company, government entity, or any
107 organized group of persons whether incorporated or not;

108 (v) "Pest" shall have the meaning provided in 40 CFR 152.5, as
109 amended from time to time;

110 (w) "Pesticide" means any substance or mixture of substances
111 intended for preventing, destroying, repelling, or mitigating any pest,
112 or any substance or mixture of substances intended for use as a plant
113 regulator, defoliant or desiccant;

114 (x) "Plant regulator" means any substance or mixture of substances
115 intended, through physiological action, for accelerating or retarding
116 the rate of growth or rate of maturation, or for otherwise altering the
117 behavior of plants or the produce thereof, but shall not include
118 substances to the extent that they are intended as plant nutrients, trace
119 elements, nutritional chemicals, plant inoculants, and soil amendments
120 which are not for pest destruction and are nontoxic, nonpoisonous in
121 the undiluted packaged concentration;

122 (y) "Registrant" means a person who has registered any pesticide
123 pursuant to the provisions of this chapter;

124 (z) "Unreasonable adverse effects on the environment" means any
125 unreasonable risk to man or the environment, taking into account the
126 economic, social, and environmental costs and benefits of the use of
127 any pesticide;

128 (aa) "Weed" means any plant which grows where not wanted;

129 (bb) "FIFRA" means the federal Insecticide, Fungicide and
130 Rodenticide Act, 7 USC 135 et seq., as amended by the federal
131 Environmental Pesticide Control Act of 1972, 7 USC 136 et seq., and as
132 may be amended from time to time;

133 (cc) "Restricted use pesticide" means any pesticide or pesticide use
134 classified as restricted by the administrator of the United States
135 Environmental Protection Agency or by the commissioner; and

136 (dd) "Integrated pest management" means use of all available pest
137 control techniques including judicious use of pesticides, when
138 warranted, to maintain a pest population at or below an acceptable
139 level, while decreasing the unnecessary use of pesticides.

140 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) As used in this section,
141 "lawn care pesticide" means a pesticide registered by the United States
142 Environmental Protection Agency and labeled pursuant to FIFRA for
143 use in or around household premises in lawn, garden and ornamental
144 sites or areas.

145 (b) No person shall offer for sale a lawn care pesticide in a nonrigid
146 container at a facility that contains food products for sale, except for
147 food products contained in a vending machine or food products
148 offered for sale on behalf of a nonprofit organization as a fund raiser.

149 (c) The Commissioner of Environmental Protection shall adopt
150 regulations, in accordance with the provisions of chapter 54, regarding
151 the methods of storage, prior to sale or distribution, of lawn care
152 pesticides, so as to protect human health and prevent groundwater
153 contamination.

154 Sec. 3. Subsection (e) of section 22a-63 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective*
156 *October 1, 2004*):

157 (e) Any person who violates any provision of this chapter or section
158 2 of this act may be assessed a civil penalty of not more than two
159 thousand five hundred dollars per day for each day such violation
160 continues. The Attorney General, upon complaint of the commissioner,
161 shall institute a civil action to recover such penalty in the superior
162 court for the judicial district of Hartford. All actions brought by the
163 Attorney General shall have precedence in the order of trial as
164 provided in section 52-191.

This act shall take effect as follows:

Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

ENV *Joint Favorable Subst.*