



General Assembly

January Session, 2007

Amendment

LCO No. 7149

HB0523407149HDO

Offered by:
REP. ROY, 119th Dist.

To: Subst. House Bill No. 5234 File No. 278 Cal. No. 249

"AN ACT BANNING PESTICIDE USE ON SCHOOL GROUNDS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 22a-59 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2007*):

6 (a) For purposes of enforcing the provisions of this chapter, sections
7 10-231b, as amended by this act, 10-231c, 10-231d, subsection (a) of
8 section 23-61a and sections 23-61b and 23-61f, officers or employees
9 duly designated by the commissioner are authorized to enter at
10 reasonable times, any establishment or other place where pesticides or
11 devices are being or have been used, or where pesticides or devices are
12 held for use, distribution or sale in order to: (1) Observe the application
13 of pesticides; (2) determine if the applicator is or should be certified;
14 (3) determine if the applicator has obtained a proper permit to apply
15 restricted use pesticides; (4) inspect equipment or devices used to

16 apply pesticides; (5) inspect or investigate the validity of damage
17 claims; (6) inspect or obtain samples in any place where pesticides or
18 devices have been used or are held for use, storage, distribution or
19 sale; (7) obtain samples of any pesticides or devices packaged, labeled
20 and released for shipment and samples of any containers or labeling
21 for such pesticides or devices, and (8) obtain samples of any pesticides
22 or devices that have been used and obtain samples of any containers or
23 labeling for such pesticides or devices. Before undertaking such
24 inspection, the officers or employees shall present to the owner,
25 operator, or agent in charge of the establishment or other place where
26 pesticides or devices are held for distribution or sale, appropriate
27 credentials and a written statement as to the reason for the inspection,
28 including a statement as to whether a violation of the law is suspected.
29 If no violation is suspected, an alternate and sufficient reason shall be
30 given in writing. Each such inspection shall be commenced and
31 completed with reasonable promptness. If the officer or employee
32 obtains any samples, prior to leaving the premises, he shall give to the
33 owner, operator, or agent in charge a receipt describing the samples
34 obtained and, if requested, a portion of each such sample equal in
35 volume or weight to the portion retained. If an analysis is made of
36 such samples, the laboratories of the Connecticut Agricultural
37 Experiment Station may be used and a copy of the results of such
38 analysis shall be furnished promptly to the owner, operator, or agents
39 in charge and the commissioner.

40 Sec. 502. Subsection (b) of section 22a-61 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective*
42 *October 1, 2007*):

43 (b) It shall be unlawful for any person:

44 (1) To detach, alter, deface, or destroy, in whole or in part, any
45 labeling required under FIFRA;

46 (2) To refuse to keep any records required pursuant to section 22a-
47 58, or to refuse to allow the inspection of any records or establishment

48 pursuant to sections 22a-58 and 22a-59, or to refuse to allow an officer
49 or employee of the Department of Environmental Protection to take a
50 sample of any pesticide pursuant to section 22a-59;

51 (3) To give a guaranty or undertaking provided for in subsection (c)
52 of this section which is false in any particular, except that a person who
53 receives and relies upon a guaranty authorized under subsection (c) of
54 this section may give a guaranty to the same effect, which guaranty
55 shall contain, in addition to that person's own name and address, the
56 name and address of the person residing in the United States from
57 whom the guaranty or undertaking was received;

58 (4) To use for his own advantage or to reveal, other than to the
59 commissioner or officials or employees of the Department of
60 Environmental Protection or other federal or state executive agencies,
61 or to the courts, or to physicians, pharmacists and other qualified
62 persons, needing such information for the performance of their duties,
63 in accordance with such directions as the commissioner may prescribe,
64 any information acquired by authority of this part which is
65 confidential under this part;

66 (5) Who is a registrant, wholesaler, dealer, retailer or other
67 distributor to advertise a product registered under this part for
68 restricted use without giving the classification of the product assigned
69 to it under section 22a-50;

70 (6) To make available for use, or to use, any registered pesticide
71 classified for restricted use or permit use for some or all purposes other
72 than in accordance with section 22a-50 and any regulations adopted
73 thereunder;

74 (7) To use any registered pesticide in a manner inconsistent with
75 restrictions prescribed under this part, subsection (a) of section 23-61a,
76 section 23-61b or inconsistent with labeling;

77 (8) To use any pesticide which is under an experimental use permit
78 contrary to the provisions of the permit;

- 79 (9) To violate any order issued under section 22a-62;
- 80 (10) To violate any suspension order issued pursuant to this part;
- 81 (11) To violate any cancellation of registration of a pesticide;
- 82 (12) To violate any provision of section 22a-56 or any regulation
83 established pursuant to this part;
- 84 (13) To violate any provision of section 10-231b, as amended by this
85 act, 10-231c, 10-231d or 22a-57;
- 86 (14) To knowingly falsify all or part of any application for
87 registration, application for experimental use permit, any records
88 required to be maintained pursuant to section 22a-58, any report filed
89 under this part, or any information marked as confidential and
90 submitted to the commissioner under any provision of this part;
- 91 (15) Who is a registrant, wholesaler, dealer, retailer or other
92 distributor to fail to file reports required by this part;
- 93 (16) To use any pesticide in tests on human beings unless such
94 human beings (i) are fully informed of the nature and purposes of the
95 test and of any physical and mental health consequences which are
96 reasonably foreseeable, therefrom, and (ii) freely volunteer to
97 participate in the test.
- 98 Sec. 503. Section 22a-63 of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2007*):
- 100 (a) Any registrant, commercial applicator, uncertified person who
101 performs or advertises or solicits to perform commercial application,
102 wholesaler, dealer, retailer or other distributor who knowingly violates
103 any provision of this chapter, section 10-231b, as amended by this act,
104 10-231c, 10-231d, subsection (a) of section 23-61a or section 23-61b,
105 shall be fined not more than five thousand dollars, or imprisoned for
106 not more than one year or both.

107 (b) Any private applicator or other person, not included in
108 subsection (a), who knowingly violates any provision of this chapter,
109 section 10-231b, as amended by this act, 10-231c, 10-231d, subsection
110 (a) of section 23-61a or section 23-61b, shall be fined not more than one
111 thousand dollars, or imprisoned for not more than thirty days or both.

112 (c) Any person who, with intent to defraud, uses or reveals
113 information relative to formulas of products acquired under the
114 authority of this chapter, shall be fined not more than ten thousand
115 dollars, or imprisoned for not more than one year or both.

116 (d) When construing and enforcing the provisions of this chapter,
117 sections 10-231b, as amended by this act, 10-231c, 10-231d, subsection
118 (a) of section 23-61a and sections 23-61b and 23-61f, the action,
119 omission or failure to act of any officer, agent or other person acting
120 for or employed by any person shall in every case be also deemed to be
121 the action, omission or failure to act of such person as well as that of
122 the person employed.

123 (e) Any person who violates any provision of this chapter, section
124 10-231b, as amended by this act, 10-231c or 10-231d, may be assessed a
125 civil penalty of not more than two thousand five hundred dollars per
126 day for each day such violation continues. The Attorney General, upon
127 complaint of the commissioner, shall institute a civil action to recover
128 such penalty in the superior court for the judicial district of Hartford.
129 All actions brought by the Attorney General shall have precedence in
130 the order of trial as provided in section 52-191.

131 (f) Any person who is not certified as a commercial applicator who
132 performs or advertises or solicits to perform commercial application of
133 a pesticide, or any person possessing an operational certificate for
134 commercial application under section 22a-54 who performs or
135 advertises or solicits to perform any activity requiring a supervisory
136 certificate for commercial application shall be assessed a civil penalty
137 in an amount not less than one thousand dollars or more than two
138 thousand dollars for each day such violation continues. For any

139 subsequent violation, such penalty shall be not more than five
140 thousand dollars. The Attorney General, upon complaint of the
141 commissioner, may institute a civil action to recover such penalty in
142 the superior court for the judicial district of Hartford. Any penalties
143 collected under this subsection shall be deposited in the
144 Environmental Quality Fund established under section 22a-27g and
145 shall be used by the commissioner to carry out the purposes of this
146 section.

147 Sec. 504. Section 22a-66l of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective October 1, 2007*):

149 (a) Each state department, agency or institution shall use integrated
150 pest management at facilities under its control if the Commissioner of
151 Environmental Protection has provided model pest control
152 management plans pertinent to such facilities.

153 (b) Each state agency or school which enters into a contract for
154 services for pest control and pesticide application may revise and
155 maintain its bidding procedures to require contractors to supply
156 integrated pest management services.

157 (c) The Commissioner of Environmental Protection shall annually
158 review a sampling of state department, agency, school or institution
159 pest control management plans required by regulations adopted under
160 subsection (e) of this section or section 10-231b, as amended by this act,
161 and may review any application of pesticides to determine whether a
162 state department, agency, school or institution acted in accordance
163 with subsection (a) of this section.

164 (d) The Commissioner of Environmental Protection may provide
165 model pest control management plans which incorporate integrated
166 pest management for each appropriate category of commercial
167 pesticide certification which it offers. The commissioner shall, within
168 available resources, notify municipalities, school boards, and other
169 political subdivisions of the state of the availability of the model plans
170 for their use. The Commissioner of Environmental Protection shall

171 consult with any state agency head in the development of any such
172 plan for properties in the custody or control of such agency head.

173 (e) The Commissioner of Environmental Protection, in consultation
174 with the Commissioner of Public Health, shall adopt regulations, in
175 accordance with the provisions of chapter 54, establishing
176 requirements for the application of pesticides by any state department,
177 agency or institution. Such regulation shall include provisions for
178 integrated pest management methods to reduce the amount of
179 pesticides used. Notwithstanding the provisions of this section and
180 any regulations adopted under this section, a pesticide may be applied
181 if the Commissioner of Public Health determines there is a public
182 health emergency or the Commissioner of Environmental Protection
183 determines that such application is necessary for control of
184 mosquitoes.

185 (f) The Commissioner of Environmental Protection shall develop
186 and implement a program to inform the public of the principles of
187 integrated pest management and to encourage its application in
188 private properties."