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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO HEALTH AND SAFETY - PESTICIDE CONTROL

Introduced By: Representatives McNamara, Speakman, Caldwell, Bennett, and Kislak

Date Introduced: February 05, 2020

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-25-4 of the General Laws in Chapter 23-25 entitled "Pesticide
2 Control" is hereby amended to read as follows:

3 **23-25-4. Definitions.**

4 As used in this chapter:

5 (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control,
6 or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

7 (2) "Adulterated" applies to any pesticide if its strength or purity falls below the
8 professed standards of quality as expressed on its labeling under which it is sold, or if any
9 substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of
10 the pesticide has been wholly or in part abstracted.

11 (3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal
12 product, produced by a person (including farmers, ranchers, vineyardists, plant propagators,
13 Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable
14 persons) primarily for sale, consumption, propagation, or other use by humans or animals.

15 (4) "Animal" means all vertebrate and invertebrate species, including, but not limited to,
16 man and other mammals, birds, fish, and shellfish.

17 (5) "Beneficial insects" means those insects which, during their life cycle, are effective
18 pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

19 (6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

1 (7) "Defoliant" means any substance or mixture of substances intended for causing the
2 leaves or foliage to drop from a plant with or without causing abscission.

3 (8) "Desiccant" means any substance or mixture of substances intended for artificially
4 accelerating the drying of plant tissue.

5 (9) "Device" means any instrument or contrivance (other than a firearm) which is
6 intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or
7 animal life (other than humans and other than bacteria, virus, or other micro-organism on or in
8 living humans or other living animals) but not including equipment used for the application of
9 pesticides when sold separately from it.

10 (10) "Director" means the director of environmental management.

11 (11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for
12 shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

13 (12) "Environment" includes water, air, land, and all plants and humans and other living
14 animals in it, and the interrelationships which exist among these.

15 (13) "EPA" means the United States Environmental Protection Agency.

16 (14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §
17 136 et seq., and other legislation supplementary to it and amendatory of it.

18 (15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-
19 bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts,
20 mildews, molds, yeasts, and bacteria, except those in or on living humans or other living animals,
21 and except those in or on processed food, beverages, or pharmaceuticals.

22 (16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic
23 pesticide under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director
24 under § 23-25-9(a)(2).

25 (17) "Imminent hazard" means a situation which exists when the continued use of a
26 pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely
27 result in unreasonable adverse effects on the environment or will involve unreasonable hazard to
28 the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. §
29 1531 et seq.

30 (18) "Inert ingredient" means an ingredient which is not an active ingredient.

31 (19) "Ingredient statement" means:

32 (i) Statement of the name and percentage of each active ingredient together with the total
33 percentage of the inert ingredients in the pesticide; and

34 (ii) When the pesticide contains arsenic in any form, the ingredient statement shall also

1 include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

2 (20) "Insect" means any of the numerous small invertebrate animals generally having the
3 body more or less obviously segmented, for the most part belonging to the class insecta,
4 comprising six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies,
5 and their immature stages, and to other allied classes of anthropods whose members are wingless
6 and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and
7 wood lice.

8 (21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a
9 systems approach to reduce pest damage to tolerable levels through a variety of techniques,
10 including natural predators and parasites, genetically resistant hosts, environmental modifications
11 and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical
12 defenses first and chemical pesticides second.

13 (22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide
14 or device or any of its containers or wrappers.

15 (23) "Labeling" means the label and all other written, printed, or graphic matter:

16 (i) Accompanying the pesticide or device at any time; or

17 (ii) To which reference is made on the label or in literature accompanying the pesticide or
18 device, except to current official publications of EPA, the United States Departments of
19 Agriculture and Interior, and the department of health and human services; state experiment
20 stations; state agricultural colleges; and other federal or state institutions or agencies authorized
21 by law to conduct research in the field of pesticides.

22 (24) "Land" means all land and water areas, including airspace, all plants, animals,
23 structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or
24 mobile, including any used for transportation.

25 (25) "Nematode" means invertebrate animals of the phylum Nematelminthes and class
26 Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies
27 covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or
28 eelworms.

29 (26) "Neonicotinoids" means any of a class of systemic water soluble insecticides related
30 to nicotine that affect the central nervous system of insects by selectively binding to the
31 postsynaptic nicotinic receptors of insects thereby causing paralysis and death. Neonicotinoids
32 include, but are not limited to:

33 (i) Imidacloprid;

34 (ii) Acetamiprid;

- 1 [\(iii\) Clothianidin;](#)
- 2 [\(iv\) Nitenpyram;](#)
- 3 [\(v\) Nithiazine;](#)
- 4 [\(vi\) Thiacloprid;](#)
- 5 [\(vii\) Thiamethoxam; and](#)
- 6 [\(viii\) Dinotefuran.](#)

7 ~~(26)~~[\(27\)](#) "Plant regulator" means any substance or mixture of substances intended,
8 through physiological action, for accelerating or retarding the rate of growth or rate of maturation,
9 or for altering the behavior of plants or the produce of these but shall not include substances to
10 the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant
11 inoculants, and soil amendments. Also, the term "plant regulator" is not required to include any of
12 those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone
13 horticultural products, intended for improvement, maintenance, survival, health, and propagation
14 of plants, are not for pest destruction and are nontoxic and nonpoisonous in the undiluted
15 packaged concentration.

16 ~~(27)~~[\(28\)](#) "Permit" means a written certificate, issued by the director, authorizing the
17 purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions
18 (34) and (35) of this section.

19 ~~(28)~~[\(29\)](#) "Person" means any individual, partnership, association, fiduciary, corporation,
20 governmental entity, or any organized group of persons whether incorporated or not.

21 ~~(29)~~[\(30\)](#) "Pest" means:

- 22 (i) Any insect, rodent, nematode, fungus, or weed; and
- 23 (ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other
24 micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or
25 other living animals) which the director declares to be a pest under § 23-25-9(a)(1).

26 ~~(30)~~[\(31\)](#) "Pesticide" means:

- 27 (i) Any substance or mixture of substances intended for preventing, destroying, repelling,
28 or mitigating any pest; and
- 29 (ii) Any substance or mixture of substances intended for use as a plant regulator,
30 defoliant, or desiccant.

31 ~~(31)~~[\(32\)](#) "Pesticide dealer" means any person who distributes within the state any
32 pesticide product classified for restricted use by EPA or limited use by the director.

33 ~~(32)~~[\(33\)](#)(i) "Private applicator" means any person who uses or supervises the use of any
34 pesticide for purposes of producing any agricultural commodity on land owned or rented by him

1 or her or his or her employer or (if applied without compensation other than trading of personal
2 services between producers of agricultural commodities) on land of another person.

3 (ii) "Certified private applicator" means any private applicator who is certified under §
4 23-25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide
5 classified for restricted use by EPA or limited use by the director.

6 (iii) "Commercial applicator" means any person (whether or not that person is a private
7 applicator with respect to some uses), including employees of any federal, state, county or
8 municipal agency, department, office, division, section, bureau, board, or commission, who
9 applies or supervises the application of any pesticide for any purpose or on any property other
10 than as provided by the definition of "private applicator".

11 (iv) "Certified commercial applicator" means any commercial applicator who is certified
12 under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a
13 pesticide classified for restricted use by EPA or limited use by the director.

14 (v) "Licensed commercial applicator" means any commercial applicator who is licensed
15 under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for
16 restricted use by EPA or limited use by the director on land not owned or rented by him or her.

17 ~~(33)~~(34) "Protect health and the environment" means protection against any unreasonable
18 adverse effects on the environment.

19 ~~(34)~~(35) "Registrant" means a person who has registered any pesticide pursuant to the
20 provisions of this chapter.

21 ~~(35)~~(36) "Restricted use pesticide" means a pesticide or pesticide use that is classified for
22 restricted use by the administrator of EPA, or under § 23-25-6(h).

23 ~~(36)~~(37) "State limited use pesticide" means any pesticide or pesticide use which, when
24 used as directed or in accordance with a widespread and commonly recognized practice, the
25 director determines, subsequent to a hearing, requires additional restrictions to prevent
26 unreasonable adverse effects on the environment including humans, land, beneficial insects,
27 animals, crops, and wildlife, other than pests.

28 ~~(37)~~(38) "Under the direct supervision" means that on-site supervision of any pesticide
29 application by an appropriately certified or licensed applicator who is responsible for the
30 application and is capable of dealing with emergency situations which might occur.

31 ~~(38)~~(39) "Unreasonable adverse effects on the environment" means any unreasonable risk
32 to humans or the environment, taking into account the economic, social, and environmental costs
33 and benefits of the use of any pesticide.

34 ~~(39)~~(40) "Weed" means any plant which grows where not wanted.

1 ~~(40)~~(41) "Wildlife" means all living things that are neither human nor, as defined in this
2 chapter, pests, including but not limited to mammals, birds, and aquatic life.

3 SECTION 2. Chapter 23-25 of the General Laws entitled "Pesticide Control" is hereby
4 amended by adding thereto the following section:

5 **23-25-40. Neonicotinoids prohibited.**

6 Notwithstanding any law to the contrary, no person shall purchase, acquire, possess, use,
7 apply or permit the use of any neonicotinoid, or pesticide, insecticide, herbicide, rodenticide,
8 bactericide, fungicide or larvicide which contains a neonicotinoid ingredient, or any seeds coated
9 with neonicotinoids, or product containing neonicotinoid on any land for any purpose within this
10 state.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would prohibit the use of neonicotinoids which are a class of insecticides.
- 2 This act would take effect upon passage.

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