

2022 -- S 2299

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

Introduced By: Senators Miller, Sosnowski, Valverde, Archambault, Coyne, Euer,  
DiMario, and Kallman

Date Introduced: February 15, 2022

Referred To: Senate Environment & Agriculture

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, or  
6 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 professed  
8 standards of quality as expressed on its labeling under which it is sold, or if any substance has been  
9 substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has  
10 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 intended  
6 for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life  
7 (other than humans and other than bacteria, virus, or other micro-organism on or in living humans  
8 or other living animals) but not including equipment used for the application of pesticides when  
9 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, mildews,  
20 molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except  
21 those in or on processed food, beverages, or pharmaceuticals.

22 (16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide  
23 under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-  
24 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, comprising  
4 six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their  
5 immature stages, and to other allied classes of anthropods whose members are wingless and usually  
6 have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

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

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

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

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

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

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

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

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

31 (i) Imidacloprid;

32 (ii) Acetamiprid;

33 (iii) Clothianidin;

34 (iv) Nitenpyram;

- 1           (v) Nithiazine;
- 2           (vi) Thiacloprid;
- 3           (vii) Thiamethoxam; and
- 4           (viii) Dinotefuran.

5           ~~(26)~~(27) "Plant regulator" means any substance or mixture of substances intended, through  
6 physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for  
7 altering the behavior of plants or the produce of these but shall not include substances to the extent  
8 that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and  
9 soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient  
10 mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products,  
11 intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest  
12 destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

13           ~~(27)~~(28) "Permit" means a written certificate, issued by the director, authorizing the  
14 purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34)  
15 and (35) of this section.

16           ~~(28)~~(29) "Person" means any individual, partnership, association, fiduciary, corporation,  
17 governmental entity, or any organized group of persons whether incorporated or not.

18           ~~(29)~~(30) "Pest" means:

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

23           ~~(30)~~(31) "Pesticide" means:

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

28           ~~(31)~~(32) "Pesticide dealer" means any person who distributes within the state any pesticide  
29 product classified for restricted use by EPA or limited use by the director.

30           ~~(32)~~(33)(i) "Private applicator" means any person who uses or supervises the use of any  
31 pesticide for purposes of producing any agricultural commodity on land owned or rented by him or  
32 her or his or her employer or (if applied without compensation other than trading of personal  
33 services between producers of agricultural commodities) on land of another person.

34           (ii) "Certified private applicator" means any private applicator who is certified under § 23-

1 25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide  
2 classified for restricted use by EPA or limited use by the director.

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

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

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

14 ~~(33)~~(34) "Protect health and the environment" means protection against any unreasonable  
15 adverse effects on the environment.

16 ~~(34)~~(35) "Registrant" means a person who has registered any pesticide pursuant to the  
17 provisions of this chapter.

18 ~~(35)~~(36) "Restricted use pesticide" means a pesticide or pesticide use that is classified for  
19 restricted use by the administrator of EPA, or under § 23-25-6(h).

20 ~~(36)~~(37) "State limited use pesticide" means any pesticide or pesticide use which, when  
21 used as directed or in accordance with a widespread and commonly recognized practice, the director  
22 determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable  
23 adverse effects on the environment including humans, land, beneficial insects, animals, crops, and  
24 wildlife, other than pests.

25 ~~(37)~~(38) "Under the direct supervision" means that on-site supervision of any pesticide  
26 application by an appropriately certified or licensed applicator who is responsible for the  
27 application and is capable of dealing with emergency situations which might occur.

28 ~~(38)~~(39) "Unreasonable adverse effects on the environment" means any unreasonable risk  
29 to humans or the environment, taking into account the economic, social, and environmental costs  
30 and benefits of the use of any pesticide.

31 ~~(39)~~(40) "Weed" means any plant which grows where not wanted.

32 ~~(40)~~(41) "Wildlife" means all living things that are neither human nor, as defined in this  
33 chapter, pests, including but not limited to mammals, birds, and aquatic life.

34 SECTION 2. Chapter 23-25 of the General Laws entitled "Pesticide Control" is hereby

1 amended by adding thereto the following section:

2 **23-25-40. Neonicotinoids restricted.**

3 (a) All pesticides registered in the state that contain one or more neonicotinoids and are  
4 labelled as approved for outdoor use are hereby immediately classified as state limited use  
5 pesticide. Such pesticides shall not be:

6 (1) Sold or distributed to any person other than a certified applicator;

7 (2) Used or applied by any person other than a certified applicator or any person working  
8 under the direct supervision of a certified applicator;

9 (3) Applied, except in the course of academic research, to any linden or basswood tree; or

10 (4) Applied, except in the course of academic research, to any plant when such plant bears  
11 blossoms.

12 (b) This section does not apply to:

13 (1) Pet or veterinary care products used for preventing, destroying, repelling, or mitigating  
14 fleas, mites, ticks, heartworms, or other insects or organisms when applied to or administered to  
15 companion animals, livestock, or captive wild animals, regardless of whether the application or  
16 administration occurs indoors or outdoors;

17 (2) Personal care products used for preventing, destroying, repelling, or mitigating lice or  
18 bedbugs;

19 (3) Indoor pest control products used for preventing, destroying, repelling, or mitigating  
20 insects indoors and registered in this state only for indoor use;

21 (4) Products used for controlling wood-destroying pests in and around homes and other  
22 human-made structures, in accordance with the label; or

23 (5) An article or substance treated with, or containing, a neonicotinoid to protect the article  
24 or substance itself (for example, seeds treated with a neonicotinoid to protect the seeds or wood  
25 products treated to protect the wood against insect infestation), if the neonicotinoid is registered for  
26 such use.

27 (c) Nothing in this section shall prohibit the director from further restricting or regulating  
28 neonicotinoids pursuant to § 23-25-9.

29 SECTION 3. This act shall take effect on January 1, 2024.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

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- 1 This act would restrict the use of neonicotinoids which are a class of insecticides.
- 2 This act would take effect on January 1, 2024.

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