

The Code of Alabama 1975

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Section 2-27-5.1

Local governments prohibited from passing ordinances regulating pesticides.

(a)(1) The term "pesticides" as used herein shall have the same meaning as set forth in the Alabama Pesticide Act, Section 2-27-2(

(2) Except as provided in subsection (b), no county, municipal corporation, or other political subdivision of this state shall adopt or ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, or application of pesticides.

(b) This section shall not prohibit or affect the right of any county, municipal corporation, or other political subdivision of this state to provisions of the Standard Building Code, Standard Fire Prevention Code, or the codes, standards, and recommended practices of Protection Association.

(c) Any local law or general law of local application regulating pesticide use, sale, distribution, storage, transportation, disposal, for registration, manufacturing, or application is repealed.

(Acts 1993, No. 93-259, p. 387, §§1-3.)



Fifty-first Legislature - First Regular Session

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3-377. Local regulation

The provisions of this article and the rules which implement this article are of statewide concern and are not subject to further local regulation.

A.C.A. § 20-20-226

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*** Legislation is current through the 2012 Fiscal Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** August 1, 2012. ***

Title 20 Public Health And Welfare
Subtitle 2. Health And Safety
Chapter 20 Pests and Pesticides
Subchapter 2 -- Arkansas Pesticide Use and Application Act

A.C.A. § **20-20-226** (2012)

20-20-226. State preemption.

(a) Except as otherwise authorized in this subchapter, no city, county, or other political subdivision of the state shall adopt any ordinance, rule, or regulation regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of pesticides.

(b) This section shall not affect the validity of any ordinance, rule, or regulation regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of pesticides adopted prior to March 1, 1993.

HISTORY: Acts 1993, No. 815, §§ 1, 2.

California

SEC. 15. Section 11501.1 of the Food and Agricultural Code is amended to read:

11501.1. (a) This division and Division 7 (commencing with Section 12501) are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, and any of these ordinances, laws, or regulations are void and of no force or effect.

(II) The words "PESTICIDES APPLIED", in at least twenty-four-point bold-faced type;

(III) The symbol of a circle at least two inches in diameter with a diagonal slash over an adult, child, and dog; and

(IV) The name of the commercial, limited commercial, or public applicator which made the application, in at least eighteen-point bold-faced type.

(d) If a commercial or limited commercial applicator makes a pesticide application on a commercial property site pursuant to paragraphs (a) or (b) of this subsection (2) and an owner of the site or an agent of an owner of the site is not present at the site, then, in addition to the information required by paragraph (c) of this subsection (2), the notice-of-application signs posted by the applicator at the site shall also contain the following information in black lettering and symbols on a bright yellow background in at least eighteen-point bold-faced type:

(I) The telephone number of the applicator;

(II) The name of the pesticide applied; and

(III) The date the pesticide was applied.

(3) No county, city and county, municipality, home rule county, home rule city and county, or home rule municipality shall enact or impose any notification requirements upon commercial applicators which are more stringent than those imposed by this article; except that each county, city and county, municipality, home rule county, home rule city and county, and home rule municipality shall retain the authority to impose any notification requirements upon private individuals, property owners, and the general public. Any such notification requirement imposed by any county, city and county, municipality, home rule county, home rule city and county, or home rule municipality on private individuals, property owners, or the general public shall not be held to be applicable to any commercial applicator, nor shall any commercial applicator be exposed to any liability for a failure to comply with any such notification requirement.

35-10-112.5. Statewide uniformity of pesticide control and regulation - exceptions.

(1) The general assembly hereby determines that the citizens of this state benefit from a system of safe, effective, and scientifically sound pesticide regulation. The general assembly further finds that a system of pesticide regulation that is consistent and coordinated, that creates statewide uniform standards, and that conforms with both state and federal technical standards and requirements is essential to the public health, safety, and welfare, and finds that local regulation of pesticides that is inconsistent with and adopts different standards from federal and state requirements does not assist in achieving these benefits. The general assembly also finds and declares that, through statute and regulation, the state has created a system of pesticide regulation based upon scientific standards that protects the citizens of this state. The general assembly expressly finds and declares that pesticide regulation is a matter of statewide concern.

(2) No local government shall adopt or continue in effect any ordinance, rule, resolution, charter provision, or statute regarding the use of any pesticide by persons regulated by this article or federal law and pertaining to:

(a) Any labeling or registration requirements for pesticides, including requirements regarding the name of the product, the name and address of the manufacturer, and any applicable registration numbers;

(b) Use and application of pesticides by persons regulated by this article or federal law, including, but not limited to, directions for use, classification of pesticides as general or restricted use, mixing and loading, site of application, target pest, dosage rate, method of application, application equipment, frequency and timing of applications, application rate, reentry intervals, worker specifications, container storage and disposal, required intervals between application and harvest of food or feed crops, rotational crop restrictions, and warnings against use on certain crops, animals, or objects or against use in or adjacent to certain areas;

(c) Except as specifically provided in this article, any warnings and precautionary statements, notifications, or statements of practical treatment; or

(d) Licensure, training, or certification requirements for persons regulated under this article, including any insurance and record-keeping requirements.

(3) (a) Nothing in this article may be construed to limit the authority of a local government as defined by state law to:

(I) Zone for the sale or storage of any pesticide, provide or designate sites for disposal of any pesticide or pesticide container, adopt or enforce building and fire code requirements, regulate the transportation of pesticides consistently with and in no more strict of a manner than state and federal law, adopt regulations pursuant to a storm water management program that is consistent with federal or state law, or adopt regulations to protect surface or groundwater drinking water supplies consistent with state or federal law concerning the protection of drinking water supplies;

(II) Take any action specifically authorized or required by any federal or state law or regulation with respect to pesticides, or to take any action otherwise prohibited by this article in order to comply with any specific federal or state requirement or in order to avoid a fine or other penalty under federal or state law;

(III) Regulate the use of pesticides on property owned or leased by the local government;

(IV) Issue local general occupational licenses to persons regulated by this article.

(b) This subsection (3) may not be construed to authorize a local government to utilize the authority to zone, to provide or designate disposal sites, to adopt and enforce building and fire codes, or to regulate the transportation of pesticides as described in paragraph (a) of this subsection (3) to directly or indirectly regulate or prohibit the application of pesticides by persons regulated by this article or by federal law.

(c) Nothing in this article shall be construed to be an implicit grant of authority to a local government that is not otherwise granted by state law.

(4) Any local government that promulgates an ordinance that concerns pesticides, that is promulgated pursuant to section 31-15-707 (1) (b), C.R.S., or that is promulgated pursuant to any authority described in paragraph (a) of subsection (3) of this section concerning pesticides shall file the following with the department of agriculture:

(a) A certified copy of the ordinance; and

(b) A map or legal description of the geographic area that the local government intends to regulate under the ordinance.

35-10-113. Qualified supervisor - license required. Any individual acting as a qualified supervisor must possess a valid qualified supervisor license issued by the commissioner in accordance with this article and any rules and regulations adopted pursuant thereto.

35-10-114. Certified operator - license required. Any individual acting as a certified operator shall possess a valid certified operator license issued by the commissioner in accordance with this article and any rules and regulations adopted pursuant thereto.

35-10-115. Qualified supervisor and certified operator licenses - examination - application - fees.

- (1) Each applicant for a qualified supervisor or certified operator license shall:
 - (a) Pass a written examination in each class or subclass of pesticide application in which he wishes to be licensed;
 - (b) Possess the degree of experience and any other qualifications which may be required by the commissioner for licensure under this section; and
 - (c) If he wishes to be licensed to engage in aerial application of pesticides, possess a certificate issued by the federal aviation administration as specified in license qualifications adopted by the commissioner.
- (2) Each applicant for licensure under this section shall submit an application providing all information in the form and manner the commissioner shall designate, including, but not limited to, verification that such applicant has complied with subsection (1) of this section.
- (3) Each licensee shall be required to report to the commissioner, in the form and manner he shall designate, any change to the information provided in such licensee's application or in any such reports previously submitted, within fifteen days of such change.
- (4) Each applicant for a license issued under this section shall pay a license fee in an amount determined by the commissioner, after review by the advisory committee created in section 35-10-125.

Connecticut

Sec. 22a-66. Commissioner's powers, hearings, regulations. (a) The commissioner is authorized to prescribe regulations to carry out the provisions of this part, subsection (a) of section 23-61a and section 23-61b. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

(b) The commissioner may exempt from the requirements of this part, subsection (a) of section 23-61a and section 23-61b, by regulation any pesticide which the commissioner determines to be adequately regulated by another state or federal agency, in order to carry out the purposes of this part, said subsection and said section.

(c) The commissioner, after notice and opportunity for hearing, is authorized:

(1) To declare a pest any form of plant or animal life, other than man and other bacteria, virus and other microorganisms on or in living man or other living animals, which is injurious to health or the environment;

(2) To determine any pesticide which contains any substance or substances in quantities highly toxic to man;

(3) To prescribe regulations requiring any pesticide to be colored or discolored if the commissioner determines that such requirement is feasible and is necessary for the protection of health and the environment. Such regulations shall be consistent with Section 25(c) of FIFRA and regulations promulgated thereunder;

(4) To prohibit the use of any pesticides by officials of towns, cities or boroughs or their agents when such use would result in unreasonable adverse effects on the environment;

(5) To prescribe regulations concerning the time, place, manner, methods, materials and amounts and concentrations, in connection with the application of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the commissioner deems necessary to prevent damage or injury by drift or misapplication to:

(i) Plants including forage plants, or adjacent or nearby lands;

(ii) Wildlife in adjoining or nearby areas;

(iii) Fish and other aquatic life in waters in reasonable proximity to the area to be treated;

(iv) Beneficial insects, animals or man.

(d) The commissioner is authorized to exercise all incidental powers including prescribing regulations, in accordance with the provisions of chapter 54, to comply with FIFRA.

(P.A. 73-540, S. 21, 28; P.A. 77-529, S. 25, 26; P.A. 02-89, S. 65.)

§ 1234. Licensee to keep records; duration; submission to Department.

(a) The Department shall require the licensee or certified commercial applicators to maintain records with respect to applications of pesticides. Such relevant information as the Department may deem necessary may be specified by regulation. The Department may require the licensee to maintain records related to applications of certain "state restricted pesticide uses."

(b) Such records shall be kept for a period of 2 years from the date of the application of the pesticide to which such records refer.

(c) Such records shall be made available for inspection to the Department by the licensee or certified applicator upon request in writing by the Department.

60 Del. Laws, c. 671, § 1.;

§ 1235. Storing and disposal of pesticides and pesticide containers.

No person shall transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway in a way harmful to any wildlife therein. The Department may promulgate rules and regulations governing the storing and disposal of such pesticides or pesticide containers. In determining these standards, the Department shall take into consideration any regulations issued by the E.P.A.

58 Del. Laws, c. 166; 60 Del. Laws, c. 671, § 1.;

§ 1236. Stop sale, use or removal orders.

When the Department has reasonable cause to believe a pesticide or device is being distributed or used in violation of any of the provisions of this chapter, or any of the prescribed regulations under this chapter, it may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any such pesticide or device. The pesticide or device shall not be sold, used or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing by the Department or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction. Any such "stop sale, use or removal" order shall remain in effect until the violation has been corrected. The owner or custodian of any such pesticide or device against whom a "stop sale, use or removal" order has been issued, may request a hearing to demonstrate that he or she is in compliance with this chapter or any regulations promulgated thereunder. Such hearing shall be scheduled within 15 days of the request and shall be held by the Secretary of the Department of Agriculture or his or her designee. The burden shall be on the owner or custodian of any such pesticide or device to show compliance. The hearing shall be conducted in accordance with the Administrative Procedures Act of the State. The decision of the Department may be appealed to Superior Court on the record.

58 Del. Laws, c. 166; 60 Del. Laws, c. 671, § 1; 64 Del. Laws, c. 189, § 11; 70 Del. Laws, c. 186, § 1.;

§ 1237. Enforcement of chapter.

This chapter shall be enforced by the State Department of Agriculture. The Department may establish regulations, but only after public hearing following due notice to carry out the purposes of this chapter, and all authority vested in the Department by virtue of this chapter may with like force be executed by such employees of the Department as may be designated for said purpose. Due notice shall be given under this section at least 10 days prior to the public hearing and shall consist of publication in newspapers of general circulation, a registered letter to the Pesticide Advisory Committee and may also be sent to representatives of pesticide application trade associations.

58 Del. Laws, c. 166; 60 Del. Laws, c. 671, § 1.;

§ 1238. Cooperative agreements.

The Department may cooperate, receive grants-in-aid and enter into agreements with any agency of the federal government, of this State or its subdivisions, or with any agency of another state, to obtain assistance in the implementation of this chapter, in order to:

- (1) Secure uniformity of regulations;
- (2) Cooperate in the enforcement of the federal pesticide control laws through the use of state and/or federal personnel and facilities and to implement cooperative enforcement programs;
- (3) Develop and administer state plans for training and for certification of certified applicators consistent with the federal standards;
- (4) Contract for training with other agencies for the purpose of training certified applicators;
- (5) Contract for monitoring pesticides for the national plan;
- (6) Prepare and submit state plans to meet federal certification standards, as provided for in § 4 of FIFRA [7 U.S.C. § 136i(a)-(c)]; or
- (7) Regulate certified applicators.

58 Del. Laws, c. 166; 60 Del. Laws, c. 671, § 1.;

§ 1239. Information.

The Department may, in cooperation with the University of Delaware, Delaware State University, other educational institutions or trade associations, publish information and conduct short courses of instruction in the areas of knowledge required in this chapter.

60 Del. Laws, c. 671, § 1; 69 Del. Laws, c. 67, § 2.;

§ 1240. Repeals.

Jurisdiction in all matters pertaining to the distribution, sale, use, application and transportation of pesticides and devices is by this chapter vested exclusively in the Department, and all acts and parts of acts inconsistent with this chapter, with the exception of Chapter 60 of Title 7, are hereby expressly repealed.

58 Del. Laws, c. 166; 60 Del. Laws, c. 671, § 1.;

The Florida Senate

2012 Florida Statutes

<p style="text-align: center;">TITLE XXXII REGULATION OF PROFESSIONS AND OCCUPATIONS</p>	<p style="text-align: center;">CHAPTER 487 PESTICIDE REGULATION AND SAFETY</p>	<p style="text-align: center;"><u>VIEW ENTIRE CHAPTER</u></p>
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487.051 Administration; rules; procedure.—

(1) The department may by rule:

(a) Declare as a pest any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances.

(b) Establish procedures for the taking and handling of samples and establish tolerances and deficiencies where not specifically provided for in this part; assess penalties; and prohibit the sale or use of pesticides or devices shown to be detrimental to human beings, the environment, or agriculture or to be otherwise of questionable value.

(c) Determine whether pesticides, and quantities of substances contained in pesticides, are injurious to the environment. The department shall be guided by the United States Environmental Protection Agency regulations in this determination.

(d) Establish requirements governing aircraft used for the aerial application of pesticides, including requirements for recordkeeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting any sale, lease, purchase, rental, or transfer of such aircraft to another person.

(e) Establish requirements governing the secure storage of pesticides used by aerial pesticide applicators.

(2) The department is authorized to adopt by rule the primary standards established by the United States Environmental Protection Agency with respect to pesticides. If the provisions of this part are preempted in part by federal law, those provisions not preempted shall apply. This part is intended as comprehensive and exclusive regulation of pesticides in this state. Except as provided in chapters 373, 376, 388, 403, and 482, or as otherwise provided by law, no agency, commission, department, county, municipality, or other political subdivision of the state may adopt laws, regulations, rules, or policies pertaining to pesticides, including their registration, packaging, labeling, distribution, sale, or use, except that local jurisdictions may adopt or enforce an ordinance pertaining to pesticides if that ordinance is in the area of occupational license taxes, building and zoning regulations, disposal or spillage of pesticides within a water well zone, or pesticide safety regulations relating to containment at the storage site.

History.—s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 179, ch. 71-377; ss. 5, 6, ch. 73-63; s. 6, ch. 78-95; s. 2, ch. 82-106; ss. 16, 37, ch. 92-115; s. 13, ch. 94-233; s. 477, ch. 97-103; s. 20, ch. 2000-154; s. 1, ch. 2001-360; s. 32, ch. 2004-64.

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such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, to experimental plots only. Individuals licensed pursuant to this subsection shall be certified commercial applicators for the use of "restricted use pesticides" covered by the applicant's classification.

(c) Such governmental agencies and municipal corporations shall be subject to legal recourse by any person damaged by the application of any pesticide. Such action may be brought in the county where the damage or some part thereof occurred. (Ga. L. 1976, p. 369, § 8.)

RESEARCH REFERENCES

A.L.R – Products liability; fertilizers, insecticides, pesticides, fungicides, weed killers, and

the like, or articles used in application thereof. 12 ALR4th 462.

2-7-112. Exemptions from article.

(a) Farmers. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to any farmer applying pesticides classified for general use for himself or for his farmer neighbors, provided that:

(1) He operates farm property and operates and maintains pesticide application equipment primarily for his own use;

(2) He is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and he does not publicly hold himself out as a pesticide contractor; and

(3) He operates his pesticide application equipment only in the vicinity of his own property and for the accommodation of his neighbors.

(b) Veterinarians. Paragraph (2) of subsection (b) of Code Section 2-7-99, relating to license and requirements for their issuance, shall not apply to a doctor of veterinary medicine applying pesticides to animals during the normal course of his veterinary practice, provided that he is not regularly engaged in the business of applying pesticides for hire, amounting to a principal or regular occupation, and does not publicly hold himself out as a pesticide contractor.

(c) Experimental research. Code Section 2-7-99, relating to licenses and requirements for their issuance, shall not apply to research personnel applying pesticides, other than restricted use pesticides restricted to use by certified applicators or state restricted pesticide uses restricted to use by certified applicators, only to bona fide experimental plots.

(d) Persons subject to Structural Pest Control Act. Persons subject to Chapter 45 of Title 43, the "Georgia Structural Pest Control Act," are exempt from this article and the regulations issued hereunder with respect to any activities which are regulated under Chapter 45 of Title 43. (Ga. L. 1972, p. 849, § 15; Ga. L. 1976, p. 369, § 17.)

2-7-113. Effect of article on certain other laws.

No provision of this article shall authorize any person to violate any of the provisions of any law or any rules or regulations adopted and promulgated thereunder, the administration

and enforcement of which is assigned to the Department of Natural Resources or any division therein or to the Coastal Marshlands Protection Committee. This article shall not be construed as repealing, preempting, modifying, or limiting the authority or functions assigned to the Department of Natural Resources or its divisions or officials or to the Coastal Marshland Protection Committee. (Ga. L. 1976, p. 369, § 25.)

2-7-113.1. Local regulation of pesticides prohibited; variances from rule or regulation of Commissioner of Agriculture.

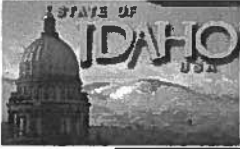
(a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution relating to pesticide use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture. This provision shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

(b) The governing authority of any county or municipality may, by resolution, petition the Commissioner of Agriculture for a variance from a rule or regulation of the Commissioner because of special circumstances relating to the use or application of a pesticide. If such a petition is received by the Commissioner, it shall be the duty of the Commissioner to notify the President of the Senate, the Speaker of the House of Representatives, and the chairmen of the Agriculture Committee and Natural Resources Committee of the Senate and the Agriculture and Consumer Affairs Committee and the Natural Resources and Environment Committee of the House of Representatives that such petition has been received. The Commissioner shall conduct a public hearing on such petition and issue a decision on the requested variance within 60 days of the receipt of the petition. If a decision is not given within 60 days of the receipt of the petition, the variance shall automatically be granted. The Commissioner may grant a variance requested under this subsection with or without changes. (Code 1981, § 2-7-113.1, enacted by Ga. L. 1992, p. 3162, § 1.)

Effective date. – This code section became effective July 1, 1992.

2-7-114. Penalties.

Any person violating any provision of this article or any regulation adopted hereunder shall be guilty of a misdemeanor. (Ga. L. 1972, p. 849, § 19; Ga. L. 1976, p. 369, § 21.)



LEGISLATURE



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TITLE 22 AGRICULTURE AND HORTICULTURE

CHAPTER 34 PESTICIDES AND CHEMIGATION

22-3426. UNIFORMITY OF STATE PESTICIDE RULE. Notwithstanding any other provision of law to the contrary, no city, county, taxing district or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, resolution or statute regarding pesticide sale, use, or application including without limitation: registration, notification of use, advertising and marketing, distribution, application methods, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition. Nothing contained in this section shall prohibit or limit fire prevention personnel or fire extinguishing personnel of a city, county or fire protection district from conducting inspections pursuant to or enforcing the International Fire Code.

History:

[22-3426, added 1994, ch. 102, sec. 1, p. 231; am. 1995, ch. 106, sec. 1, p. 340; am. 1996, ch. 22, sec. 18, p. 58; am. 2002, ch. 86, sec. 2, p. 196.]

How current is this law?

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Illinois

(415 ILCS 60/3) (from Ch. 5, par. 803)

Sec. 3. Delegation of Authority. The Illinois Department of Agriculture shall administer "The Illinois Pesticide Act".

1. It shall be the duty of the Department of Agriculture to enforce this Act and such provisions of other Acts intended to control the registration, purchase, use, storage and disposal of pesticides, unless otherwise specified in this Section. Also, the Department of Agriculture shall control the purchase and use of pesticides pertaining to the production, protection, care, storage, or transportation of agricultural commodities and to control the use of pesticides applied by agricultural equipment. Also, the Department shall establish and implement an Agrichemical Facility Response Action Program as provided in Section 19.3.

2. It shall be the duty of the Department of Public Health to enforce such provisions of this Act and other Acts intended to control structural pest pesticides, as defined in subparagraph 37 of Section 4, of this Act. It shall be the duty of the Department of Public Health to enforce such provisions of this Act related to vector control, control of pestiferous and disease carrying insects, rodents and other animals, and control of birds and other mammals that may pose a threat to the health of the public.

3. It shall be the duty of the Environmental Protection Agency to enforce such provisions of this Act and other Acts intended to protect and preserve the quality of air, water, and guard against unreasonable contamination of land resources.

4. The regulation of pesticides by any political subdivision of this State, including home rule units, is specifically prohibited except for counties and municipalities with a population over 2,000,000. The regulation of pesticides under this Act is an exclusive power and function of the State, except as provided in this paragraph, and is a denial and limitation, under Article VII, Section 6, subsection (h) of the Illinois Constitution, of the power of a home rule unit to regulate pesticides.

(Source: P.A. 89-94, eff. 7-6-95.)

Indiana

IC 15-16-5-71

Political subdivision regulation of pesticides prohibited; hearing;

Variance Sec. 71. (a) A political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the use or application of pesticides. (b) A political subdivision may, by resolution, petition the board for a hearing to allow a variance from a rule of the board because of special circumstances relating to the use or application of a pesticide. If a petition is received, the board shall hold a public hearing to consider allowing the variance requested. The public hearing shall be conducted in an informal manner. IC 4-21.5 does not apply to the public hearing under this section. (c) The board may grant a variance requested under this section with or without changes.

As added by P.L.2-2008, SEC.7.

I o w a

88 Acts, ch 1118, §1

Document 31 of 32**Source:**

Iowa Code/2011 Iowa Code/Statutes (Code Chapters & Sections)/TITLE V AGRICULTURE/SUBTITLE 4 AGRICULTURE-RELATED PRODUCTS AND ACTIVITIES/CHAPTER 206 PESTICIDES/206.33 Daminozide — prohibition.

206.33 Daminozide — prohibition.

A person shall not offer for sale, sell, purchase, apply, or use a pesticide containing daminozide in this state if the pesticide is sold, purchased, applied, or used for purposes of enhancing or improving a product produced to be consumed.

89 Acts, ch 127, §1; 90 Acts, ch 1260, §24

Document 32 of 32**Source:**

Iowa Code/2011 Iowa Code/Statutes (Code Chapters & Sections)/TITLE V AGRICULTURE/SUBTITLE 4 AGRICULTURE-RELATED PRODUCTS AND ACTIVITIES/CHAPTER 206 PESTICIDES/206.34 Local legislation — prohibition.

206.34 Local legislation — prohibition.**1. As used in this section:**

a. "Local governmental entity" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter 331, or any special purpose district.

b. "Local legislation" means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

2. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide. A local governmental entity shall not adopt or continue in effect local legislation relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide, regardless of whether a statute or rule adopted by the department applies to preempt the local legislation. Local legislation in violation of this section is void and unenforceable.

3. This section does not apply to local legislation of general applicability to commercial activity.

94 Acts, ch 1002, §2; 94 Acts, ch 1198, §42

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2012 Kansas Statutes

2-2480. Uniformity of pesticide law; state has exclusive jurisdiction. (a) On and after the effective date of this act, the provisions of the Kansas pesticide law, and any rules and regulations promulgated thereunder relating to pesticide sale or use, including, but not limited to, application of pesticides, training and certification of pesticide applicators, storage of pesticides, transportation of pesticides and disposal of pesticides within the state of Kansas shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law is hereby declared to be invalid and of no effect. Any amendment to the Kansas pesticide law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) This act is supplemental to and shall become a part of the Kansas pesticide law.

History: L. 1992, ch. 195, § 4; April 30.

217B.270 Prohibition against local regulation of fertilizer and pesticides for agriculture and silviculture.

- (1) The Commonwealth of Kentucky hereby determines that the citizens of the state benefit from a system of safe, effective, and scientifically sound fertilizer and pesticide regulation on agricultural and silvicultural land. The Commonwealth further finds that a system of fertilizer and pesticide regulation which is consistent, coordinated, and comports with both federal and state technical expertise is essential to the public health, safety, and welfare, and that local regulation of fertilizer and pesticides does not materially assist in achieving these benefits.
- (2) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding agriculture and silviculture fertilizer regulated pursuant to KRS 250.371 and pesticide sale or use, including without limitation: registration, notification of use, advertising and marketing distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.
- (3) Nothing in this section shall be construed to:
 - (a) Abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program;
 - (b) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or
 - (c) Waive any reporting requirement established by state or federal law or regulation.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 17, sec. 1, effective June 26, 2007. -- Created 1992 Ky. Acts ch. 303, sec. 1, effective July 14, 1992.

§3224. Local regulations

A. The regulation of pesticides is preempted by this Chapter. The governing authority of a political subdivision shall not adopt any ordinance in any way affecting the registration, sale, or application of pesticides, or the disposal of pesticide wastes, except as provided herein.

B. The governing authorities of parishes and municipalities may request that the rules applicable to the distribution, sale, or application of pesticides be amended to provide for specific problems encountered in the parish or municipality. The following provisions shall govern requests by parish or municipal governing authorities:

- (1) The request shall be addressed to the commissioner.
- (2) The commission shall hear the request.
- (3) The commission shall make a preliminary determination as to the advisability of amending the state rules and shall transmit its determination to the commissioner.
- (4) The commissioner shall make the final determination as to the desirability of amending the state rules.
- (5) The standards to be used by the commission and the commissioner in making their determinations shall be as follows:
 - (a) The gravity of the threat to the environment or to human, plant, or animal health sought to be alleviated by the proposed rule.
 - (b) The economic impact on the agricultural community caused by the proposed rule.
 - (c) The impact of the proposed rule on statewide uniformity of rules affecting pesticides.
 - (d) The availability of alternative pesticides.
 - (e) Whether the benefits of the proposed rule outweigh the liabilities of the proposed rule.
- (6) If the commissioner determines that the rules should be amended, the rule shall be adopted in accordance with the Administrative Procedure Act.

C. Any governing authority of a political subdivision may petition the commissioner for approval of an ordinance applicable to the distribution, sale, or application of pesticides, or the disposal of pesticide wastes. The procedure for obtaining such approval shall be as follows:

- (1) The governing authority shall transmit the proposed ordinance to the commissioner who shall refer the ordinance for hearing in accordance with R.S. 3:3224(B)(2) and (3).
- (2) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance.
- (3) Both the commission and the commissioner shall be guided by the standards in R.S. 3:3224(B)(5) in making their respective determinations.
- (4) Any governing authority aggrieved by a final decision of the commissioner, shall have a right of judicial review of the administrative process pursuant to the provisions of the Administrative Procedure Act.

D. Notwithstanding the provisions of R.S. 3:3224(A), any governing authority of a political subdivision having in effect, on September 1, 1983, an ordinance affecting the registration, sale or application of pesticides, or the disposal of pesticide wastes shall submit the ordinance to the commissioner on or before November 1, 1983, for approval pursuant to R.S. 3:3224(C). Any such ordinance received by the commissioner on or before November 1, 1983, shall continue in full force and effect until a final disapproval of the ordinance is rendered. Any such ordinance not received by the commissioner on or before November 1, 1983, shall be void effective November 1, 1983.

Acts 1983, No. 702, §1.

Minnesota

18B.02 PREEMPTION OF LOCAL LAW.

Except as specifically provided in this chapter, the provisions of this chapter preempt ordinances by local governments that prohibit or regulate any matter relating to the registration, labeling, distribution, sale, handling, use, application, or disposal of pesticides. It is not the intent of this section to preempt local responsibilities for zoning, fire codes, or hazardous waste disposal.

History: 1987 c 358 s 44

333 CMR: PESTICIDE BOARD

333 CMR 2.00: GENERAL INFORMATION

Section

- 2.01: Purpose
- 2.02: Basic Information
- 2.03: Rules of General Applicability
- 2.04: Advisory Rulings

2.01: Purpose

The purpose of 333 CMR 2.00 is to describe the Massachusetts Pesticide Control Act and the mechanisms established by it to administer the Massachusetts pesticide program. The purpose of 333 CMR 2.00 is also to establish rules of general applicability and to define terms that apply, whenever appropriate, to 333 CMR 2.00 through 13.00.

2.02: Basic Information

The Massachusetts Pesticide Control Act was inserted as M.G.L. c. 132B by St. 1978, c. 3, as an emergency law and took effect immediately. The purpose of the Pesticide Control Act is to conform the laws of the Commonwealth with federal requirements on registration and certification of pesticides as set forth in the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 92-516, as amended, (FIFRA), and the federal regulations thereunder. To this end, the Massachusetts Pesticide Control Act creates administrative mechanisms to regulate the labeling, distribution, sale, storage, transportation, use and application and disposal of pesticides. The Massachusetts Act also establishes standards and sets forth prohibitions with regard to each regulatory function.

The responsibility for implementing the commands of the Massachusetts Pesticide Control Act is distributed by the Pesticide Control Act among three governmental bodies.

(1) Department of Food and Agriculture. The Massachusetts Department of Food and Agriculture has been designated as the state lead agency for implementation and administration of the Pesticide Control Act and the Massachusetts pesticide program.

The Pesticide Control Act charges the Department with a wide range of specific regulatory functions and empowers it to promulgate and adopt regulations, standards and forms as are necessary for implementation and administration. Among the duties assigned to the Department by the Pesticide Control Act are:

- (a) Entering into cooperative agreements and contracts in matters related to M.G.L. c. 132B and FIFRA.
- (b) Taking actions necessary to secure for the Commonwealth the benefits of FIFRA and other federal legislation.
- (c) Establishing Advisory Councils.
- (d) Declaring pests and devices to be subject to the provisions of M.G.L. c. 132B.
- (e) Establishing the fee and preparing and accepting the applications for experimental use permits.
- (f) Establishing requirements for licensing and supervising pesticide dealers.
- (g) Establishing requirements for certifying, licensing and supervising various categories of pesticide applicators.
- (h) Controlling both storage and disposal of pesticides.
- (i) Issuing administrative orders to prevent unreasonable adverse effects on the environment or violations under the Pesticide Control Act.
- (j) Right of entry and inspection as needed to administer the Pesticide Control Act.

Within the Department, the pesticide regulatory functions shall be under the administrative supervision of a Pesticides Program Director.

(2) Pesticide Board. The Massachusetts Pesticide Control Act creates within the Department of Food and Agriculture a Massachusetts Pesticide Board.

333 CMR: PESTICIDE BOARD

2.02: continued

(a) Board Members. The Commissioner of Food and Agriculture or his designee shall be Chairman of the Pesticide Board. The Board is additionally composed of the Commissioner of Environmental Quality Engineering or his designee, the Commissioner of Fisheries, Wildlife and Recreational Vehicles or his designee, the Commissioner of Environmental Management or his designee, the Commissioner of Public Health or his designee, the Director of the Division of Food and Drugs or his designee and the seven persons appointed by the Governor one of whom shall have been engaged in the commercial production of a plant-related agricultural commodity for at least the preceding five years on land owned or rented by him, one of whom shall have been an active commercial applicator of pesticides for at least the preceding five years, one of whom shall have expertise in the health effects of pesticide use, one of whom shall be a physician, one of whom shall be experienced in the conservation and protection of the environment, and two of whom shall represent the public at large. Each appointive member shall be appointed for a term of four years, except for persons appointed to fill vacancies, who shall serve for the unexpired term.

(b) Compensation. The appointive members of the Board shall receive \$50.00 for each day or portion thereof spent in the discharge of their official duties and shall be reimbursed for their necessary expenses incurred in the discharge of their official duties.

(c) Purpose of the Board. The Board's responsibilities entail advising the Commissioner of Food and Agriculture with respect to the implementation and administration of M.G.L. c. 132B. The Board also hears appeals of those aggrieved by the actions or decisions of the Department or the Subcommittee of the Pesticide Board. The Pesticide Control Act, additionally, assigns the Board the responsibility for approving a variety of Departmental actions. Among the actions requiring Board approval are:

1. All regulations, standards and forms proposed by the Department to implement and administer the Pesticide Control Act.
2. Appointment of the Pesticides Program Director.
3. Cooperative agreements and contracts with respect to M.G.L. c. 132B and FIFRA.
4. Action necessary to secure for the Commonwealth the benefits of FIFRA and other federal legislation.
5. Establishment of Advisory Councils.
6. Declarations of pests and devices to be subject to the provisions of M.G.L. c. 132B.

(3) Subcommittee of the Pesticide Board. The Massachusetts Pesticide Control Act creates within the Pesticide Board of the Department of Food and Agriculture a Subcommittee.

(a) Subcommittee Members. The Director of the Division of Food and Drugs shall be the Chairman of the Subcommittee. The Subcommittee is additionally composed of the Commissioner of Food and Agriculture or his designee, the Commissioner of Environmental Management or his designee, the Commissioner of Public Health or his designee, and one person appointed by the Governor, who shall have been actively engaged in commercial application of pesticides for at least the preceding five years who shall be a member of the Pesticide Board.

(b) Purposes of the Subcommittee. Under the Pesticide Control Act, the Subcommittee has the responsibility of registering all pesticides for use in the Commonwealth and for issuing all experimental use permits.

2.03: Rules of General Applicability

In construing 333 CMR, the rules in 333 CMR 2.03 shall be observed, unless their observance would involve a construction inconsistent with or repugnant to the context.

(1) Mailing List. The Department and the Board shall maintain a mailing list, shall place upon the list the name and address of any person so requesting, and shall give written notice to persons on the list of hearings, meetings and such other activities of the Department or Board for which notice may be appropriate. Failure to give notice to any person on the list shall not, in itself, render any act of the Department or Board invalid. The Department or Board may remove from the mailing list any person whose recorded address is not currently valid and, after notification, those persons no longer expressing interest in receiving notices.

324.8328 Local governments; powers.

Sec. 8328. (1) Except as otherwise provided in this section, it is the express legislative intent that this part preempt any local ordinance, regulation, or resolution that purports to duplicate, extend, or revise in any manner the provisions of this part. Except as otherwise provided for in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that contradicts or conflicts in any manner with this part.

(2) If a local unit of government is under contract with the department to act as its agent or the local unit of government has received prior written authorization from the department, then that local unit of government may pass an ordinance that is identical to this part and rules promulgated under this part, except as prohibited in subsection (7). The local unit of government's enforcement response for a violation of the ordinance that involves the use of a pesticide is limited to issuing a cease and desist order as prescribed in section 8327.

(3) A local unit of government may enact an ordinance identical to this part and rules promulgated under this part regarding the posting and notification of the application of a pesticide. Subject to subsection (8), enforcement of such an ordinance may occur without prior authorization from the department and without a contract with the department for the enforcement of this part and rules promulgated under this part. The local unit of government shall immediately notify the department upon enactment of such an ordinance and shall immediately notify the department of any citations for a violation of that ordinance. A person who violates an ordinance enacted under this subsection is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(4) A local unit of government may enact an ordinance prescribing standards different from those contained in this part and rules promulgated under this part and which regulates the distribution, sale, storage, handling, use, application, transportation, or disposal of pesticides under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government. The determination that unreasonable adverse effects on the environment or public health will exist shall take into consideration specific populations whose health may be adversely affected within that local unit of government.

(b) The local unit of government has determined that the use of a pesticide within that unit of government has resulted or will result in the violation of other existing state laws or federal laws.

(5) An ordinance enacted pursuant to subsections (2), (3), and (4) shall not conflict with existing state laws or federal laws. An ordinance enacted pursuant to subsection (4) shall not be enforced by a local unit of government until approved by the commission of agriculture. If the commission of agriculture denies an ordinance enacted pursuant to subsection (4), the commission of agriculture shall provide a detailed explanation of the basis of the denial within 60 days.

(6) Upon identification of unreasonable adverse effects on the environment or public health by a local unit of government as evidenced by a resolution submitted to the department, the department shall hold a local public meeting within 60 days after the submission of the resolution to determine the nature and extent of unreasonable adverse effects on the environment or public health due to the use of pesticides. Within 30 days after the local public meeting, the department shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(7) The director may contract with a local unit of government to act as its agent for the purpose of enforcing this part and the rules promulgated pursuant to this part. The department shall have sole authority to assess fees, register and certify pesticide applicators, license commercial applicators and restricted use pesticide dealer firms, register pesticide products, cancel or suspend pesticide registrations, and regulate and enforce all provisions of this part pertaining to the application and use of a pesticide to an agricultural commodity or for the purpose of producing an agricultural commodity.

(8) For any ordinance enacted pursuant to this section, the local unit of government shall provide that persons enforcing the ordinance comply with the training and enforcement requirements as determined by the director. A local unit of government shall reimburse the department for actual costs incurred in training local government personnel.

History: 1994, Act 451, Eff. Mar. 30, 1995;—Am. 1996, Act 172, Imd. Eff. Apr. 18, 1996.

Popular name: Act 451

Popular name: NREPA

324.8329 Order to stop prohibited conduct; proceeding in rem for condemnation; disposition of pesticide or device; award of court costs, fees, storage, and other expenses.

Rendered Friday, June 28, 2013

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Michigan Compiled Laws Complete Through PA 76 of 2013

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281.005. Preemption of all ordinances and rules of political subdivisions.

Sections 281.210 to 281.310 and sections 281.005 to 281.115 shall preempt all ordinances, rules and regulations of political subdivisions relating to the use of subjects covered by said sections.

281.010. Short title. – Sections 281.010 to 281.115 shall be known as the "Missouri Pesticide Use Act".

281.015. Director of agriculture to administer.

Sections 281.005 to 281.115 shall be administered by the director of the department of agriculture of the state of Missouri, hereafter referred to as the "director".

281.020. Definitions.

As used in sections 281.010 to 281.115, the following terms mean:

- (1) "Animal", all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;
- (2) "Applicator, operator or technician":
 - (a) "Certified commercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, supervise the use of, or determine the need for the use of, any pesticide, whether classified for restricted use or for general use, while he is engaged in the business of using pesticides on the lands of another as a direct service to the public in exchange for a fee or compensation;
 - (b) "Certified noncommercial applicator", any individual, whether or not he is a private applicator with respect to some uses, who is certified by the director as authorized to use, or to supervise the use of, any pesticide which is classified for restricted use only on lands owned or rented by him or his employer;
 - (c) "Certified private applicator", any individual who is certified by the director as authorized to use, or to supervise 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 or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;
 - (d) "Certified public operator", any individual who is certified by the director as authorized to use, or to supervise the use of, any pesticide classified for restricted use in the performance of his duties as an official or employee of any agency of the state of Missouri or any political subdivision thereof, or any other governmental agency;
 - (e) "Private applicator", any person not holding a certified private applicator's license who shall be required to obtain a permit for the use of any restricted use pesticide for the purposes of producing any agricultural commodity on property owned or rented by him or his employer or on the property of another person, if used without compensation other than trading of personal services between producers of agricultural commodities, such permit shall authorize the one-time emergency purchase of a restricted use pesticide for the purpose of a one-time emergency use of that pesticide;
 - (f) "Pesticide technician", any individual working under the direct supervision of a commercial applicator certified in categories as specified by regulation, and who having met the competency requirements of this chapter, is authorized by the director to determine the need for the use of any pesticide as well as to the use of any pesticide;
 - (g) "Pesticide technician trainee", any individual working in the physical presence and under the direct supervision of a certified commercial applicator to gain the required on-the-job training in preparation for obtaining a pesticide technician's license;
- (3) "Beneficial insects", those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;
- (4) "Defoliant", any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;
- (5) "Desiccant", any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;
- (6) "Determining the need for the use of any pesticide", the act of inspecting land for the presence of pests for the purpose of contracting for their control or prevention through the use of pesticides in categories as specified by regulation;
- (7) "Device", any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, viruses, or other microorganisms on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom;
- (8) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;
- (9) "Equipment" means any type of ground, water or aerial equipment or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application;

MISSISSIPPI CODE OF 1972

As Amended

SEC. 69-23-9. Determinations; rules and regulations; uniformity.

(1) The commissioner is authorized, after opportunity for a hearing:

(a) 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;

(b) To determine whether pesticides registered under authority of Section 24(c) of FIFRA are highly toxic to man in conformity with federal regulations;

(c) To determine standards of coloring or discoloring for pesticides and to subject pesticides to the requirements of Section 69-23-5(1).

(2) The commissioner may adopt, amend or repeal rules and regulations for carrying out the provisions of this chapter, including but not limited to, rules and regulations providing for the collection and examination of samples; the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; protecting the environment; labeling and adopting state restricted pesticide uses.

(3) In order to avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs to the people of this state due to the necessity of complying with such diverse requirements in the manufacture and sale of such pesticides, it is desirable that there should be uniformity between the requirements of the several states and the federal government relating to such pesticides. To this end the commissioner is authorized, after due public hearing, to adopt by regulation such regulations, applicable to and in conformity with the primary standards established by this chapter, as have been or may be prescribed by the United States government with respect to pesticides.

(4) No action taken by the commissioner under the provisions of this section shall be effective unless and until such action is approved by the advisory board created under the provisions of Section 69-25-3, Mississippi Code of 1972.

SOURCES: Codes, 1942, Sec. 5000-05; Laws, 1950, ch. 452, Sec. 5; 1971, ch. 509, Sec. 4; 1975, ch. 319, Sec. 7; Laws, 2004, ch. 518, § 1, HB 889, eff from and after July 1, 2005.

PREVIOUS VERSIONS: Pre-2004

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80-8-120. Local pesticide regulation. (1) (a) A unit of local government may adopt an ordinance to require a commercial applicator, as defined in [80-8-102](#), to provide notification when applying a pesticide, subject to the following provisions:

(i) The applicator shall post a sign or signs at the time of the pesticide application or provide notification as provided for in subsection (1)(a)(v). The applicator, property owner, or property manager may not remove a sign until the pesticide is dry or the reentry interval on the pesticide label has expired, whichever is later.

(ii) A sign must be:

(A) at least 4 inches in height and 5 inches in width; and

(B) made of weather-resistant material if used for outdoor application.

(iii) A sign must contain:

(A) the words "pesticide application"; and

(B) the telephone number of the applicator, property owner, or property manager who can supply further information about the pesticide.

(iv) A sign must be posted:

(A) at a point clearly visible from each street or road frontage of the property so that the warning is conspicuous from the public right-of-way;

(B) for an interior application, at each public access to the treated property with the front of the sign facing the access;

(C) for a golf course, at a conspicuous place in the clubhouse or pro shop or at the first and tenth tees.

(v) Notification for an application by a mosquito control district or a weed management district must be provided in a local newspaper or on local radio or television stating that the property will be treated and providing the telephone number of an individual who can supply further information on the pesticide applications. Notification under this subsection (1)(a)(v) must be made annually in the spring and periodically during the pesticide application season.

(vi) Posting or notification is not required for the following:

(A) a spot treatment of an area that is less than 100 square feet;

(B) an applicator subject to the environmental protection agency's worker protection standards as published in 40 CFR, part 156, subpart K, and 40 CFR, part 170;

(C) an application on land classified as agricultural land or forest land for taxation purposes;

(D) an application on an irrigation conveyance facility or land or on an irrigation ditch easement or right-of-way;

(E) an application of a pesticide that is a minimum risk pesticide as published by the environmental protection agency in 40 CFR 152.25(g)(1) or a sanitizer, a disinfectant, or a microbial registered with the environmental protection agency;

(F) an application on a railroad facility or right-of-way;

(G) an application on a public utility facility or right-of-way.

(b) A unit of local government that adopts a notification ordinance pursuant to this section shall:

(i) notify the department that it is adopting the ordinance on pesticide notification as provided in this section

and provide the department a final copy for the department's register provided for in subsection (4); and

(ii) fund the costs, including but not limited to:

- (A) educating its citizens of the ordinance's requirements;
- (B) compensating personnel to enforce the ordinance; and
- (C) prosecution of a violation of the ordinance.

(c) A unit of local government may not adopt a notification ordinance under this section that imposes additional fee requirements on a commercial applicator.

(2) The department may enter into a cooperative agreement with a unit of local government for the administration and enforcement of local rules adopted under 80-8-105(3)(a).

(3) Except as provided in subsections (1) and (2), a unit of local government may not regulate or prohibit the registration, labeling, distribution, use, or sale of pesticides or enact notification provisions more stringent than those provided for in subsections (1) and (2). It is not the intent of this subsection to prevent local responsibilities for zoning, fire codes, or disposal of pesticides pursuant to Title 75, chapter 10, part 4.

(4) The department shall maintain and, upon request, distribute a register of ordinances adopted by local governing bodies pursuant to subsection (1).

History: En. Sec. 10, Ch. 465, L. 1993; amd. Sec. 1, Ch. 180, L. 1997; amd. Sec. 126, Ch. 114, L. 2003.

Provided by Montana Legislative Services

2-2625. Local ordinances and resolutions; preemption; regulatory functions; contracts authorized.

Except as specifically provided in the Pesticide Act, the provisions of the act shall preempt ordinances and resolutions by political subdivisions that prohibit or regulate any matter relating to the registration, labeling, distribution, sale, handling, use, application, or disposal of pesticides. The department may contract with a city of the metropolitan or primary class it deems qualified to conduct, on a case-by-case basis, any regulatory functions authorized pursuant to the act relating to the disposal of pesticides except those functions relating to the issuance, suspension, or revocation of permits or any order of probation, suspension, immediate suspension, or revocation.

Source

Laws 1993, LB 588, § 4;
Laws 2002, LB 436, § 4.

New Hampshire

430:49 Preemption of Local Regulation. –

I. Administration and enforcement of this subdivision shall be implemented in an equitable manner throughout the state. This subdivision is of statewide concern and occupies the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this subdivision, no ordinance or regulation of local government, including but not limited to, an action by a local governmental agency or department, a county board of commissioners or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, and any of those ordinances, laws or regulations are void and of no force or effect.

II. This section shall not be construed to invalidate any ordinance or regulation of a local government in effect on the effective date of this section.

Source. 1993, 279:1, eff. Aug. 20, 1993.

Act. Such regulations may relate to the time, manner, methods, materials and amounts and concentrations in connection with the application of the pesticides and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to plants, including forage plants, or adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals or beneficial insects. In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government or other reliable sources;

(19) requiring any pesticide use dilution to be colored or discolored if it determines that such requirement is feasible and is necessary for the protection of health and the environment;

(20) establishing good pesticide use and handling practices for commercial pesticide applicators;

(21) establishing requirements for supervision of servicemen of structural pest control applicators; and

(22) regulating false or misleading advertisement in the sales or use of pesticides and devices.

B. The board shall adopt regulations that are consistent with regulations of the New Mexico environmental improvement board, the New Mexico water quality control commission and the laws administered by the regulations of the United States environmental protection agency.

C. The department is authorized to specify the quantities and concentrations of restricted use pesticides that may be applied.

76-4-9.1. State preemption.

Except as otherwise authorized in the Pesticide Control Act, no city, county or other political subdivision of the state and no home rule municipality shall adopt or continue in effect any ordinance, rule, regulation or statute regarding the registration, labeling, distribution, sale, handling, use, application, transportation or disposal of pesticides.

76-4-10. Sampling and examination of pesticides or devices; residue analysis.

A. The sampling and examination of pesticides or devices shall be made under the direction of the department for the purpose of determining if they comply with the requirements of the Pesticide Control Act.

B. The sampling of land, including agricultural products that are to be consumed by man or animals, may be made by the department to determine if pesticide residues are present that will cause unreasonable adverse effects on the environment or if the residues exceed the tolerance established by the United States environmental protection agency, New Mexico environmental improvement agency [department of environment] or restrictions established by other federal or state regulatory agencies.

76-4-11. "Stop sale, use or removal" order.

When the department has reasonable cause to believe a pesticide or device is being distributed, used, stored or transported in violation of any of the provisions of the Pesticide Control Act or regulations adopted pursuant thereto, the department may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of the pesticide or device. If the owner or custodian is not available to receive the order, the department may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be distributed, used

New Jersey Permanent Statutes Database

13:1F-9. Additional powers

The department shall have power, in addition to those granted by any other law, to

- a. Conduct and supervise research programs for the purpose of determining the effects and hazards of the use and application of pesticides on man and his environment; and in further research effort the commissioner shall consider the School of Agriculture of Rutgers, The State University, as a primary source of assistance;
- b. Conduct and supervise Statewide programs of pesticide control education including the preparation and distribution of information relating to pesticide control;
- c. Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected violation of law relating to pesticides and ascertaining noncompliance with any rules, regulations or orders of the department;
- d. Receive or initiate complaints of violations of applicable laws, rules, regulations and orders relating to pesticides and institute legal proceedings for the prevention of such violations and recovery of penalties, in accordance with law;
- e. With the approval of the Governor, cooperate with, and receive money from, the Federal Government, the State Government, or any county or municipal government or from private study and control of pesticides;
- f. Declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
- g. Determine whether pesticides are highly toxic to man;
- h. Determine standards of coloring or discoloring for pesticides;
- i. Subject pesticides to the requirements of Section 11 of P.L.1971, c. 176 (C. 13:1F-11);
- j. Cooperate with, and enter into agreement with, any other agency of this State, or the United States, and any other state or agency thereof for the purpose of carrying out the purpose of securing uniformity of regulations, in order to avoid confusion endangering the public health, resulting from diverse requirements, particularly as to the labeling and coloring of pesticides and increased costs due to the necessity complying with such diverse requirements in the manufacture and sale of such pesticides;
- k. Have the power, in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) to charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall be projected expense incurred by the department in the performance of the service for which the fee is charged. All fees collected pursuant to this section shall be deposited in the Environment Fund created pursuant to P.L.1975, c. 232 and kept separate from other receipts deposited therein and appropriated for the operation of the Pesticide Control Program in the Department of Environmental Protection.

L.1971, c. 176, s. 9, eff. June 1, 1971. Amended by L.1981, c. 538, s. 1, eff. Jan. 12, 1982.

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1. Jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides, is by this article vested exclusively in the commissioner.

2. All authority vested in the commissioner by this article may be executed with like force and effect by employees of the department designated by the commissioner; however, all hearings held under this article except those held under the provisions of title 9 shall be conducted by the commissioner or by a person designated by him for that purpose, and any decision rendered after any such hearing shall be made by the commissioner.

3. The commissioner is authorized, after a hearing:

a. To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;

b. To determine whether pesticides are highly toxic to man, and to promulgate a list of such pesticides;

c. To determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of paragraph d of subdivision 1 of section 33-1301;

d. To promulgate a list of restricted use pesticides and the usages of such pesticides that may be permitted subject to whatever conditions or limitations which the commissioner deems appropriate to fully protect the public interest; provided, however, that no hearing shall be required on individual additions to such list unless requested sixty days after notice has been provided in the environmental notice bulletin as prescribed in section 3-0306 of such law, as added by chapter seven hundred fourteen of the laws of nineteen hundred seventy-five, by the applicant or an interested party; and

e. To adopt, promulgate and issue such rules and regulations as he may deem necessary to carry out and give full force and effect to the provisions of this article. However, rules and regulations regarding business registration and certification may be adopted only after a public hearing. Such rules and regulations may prescribe methods to be used in the application of pesticides, including the time, place, manner and method of application and equipment used, and may restrict or prohibit use of materials in designated areas during specified periods

of time, and shall encompass all reasonable factors which he deems necessary to prevent damage or injury to health, property and wildlife.

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North Carolina

§ 143-465. Reciprocity; intergovernmental cooperation.

(a) The Board may issue any license required by this Article on a reciprocal basis with other states without examination to a nonresident who is licensed in another state substantially in accordance with any of the provisions of the Article, provided that financial security as provided for in G.S. 143-467 is met.

(b) The Board may cooperate or enter into formal agreements with any other agency of this State or its subdivisions or with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this Article.

(c) In order to avoid confusion resulting from diverse requirements and to avoid increased costs to the people of this State due to the necessity of complying with such diverse requirements in the manufacture and sale of such pesticides, it is desirable that there should be uniformity between the requirements of the several states and the federal government relating to such pesticides. To this end the Board is authorized, after public hearing, to adopt by regulation such regulations, applicable to and in conformity with the primary standards established by this Article, as have been or may be prescribed with respect to pesticides by departments or agencies of the United States government.

(d) No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of pesticides in any area subject to regulation by the Board pursuant to this Article. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection authority. (1971, c. 832, s. 1; 1995, c. 445, s. 8.)

921.26 Exceptions.

(A) The penalties provided for violations of this chapter do not apply to any of the following:

(1) Any carrier while lawfully engaged in transporting a pesticide or device within this state, if that carrier, upon request, permits the director of agriculture to copy all records showing the transactions in the movement of the pesticides or devices;

(2) Public officials of this state and the federal government, other than commercial applicators employed by the federal government, the state, or a political subdivision, while engaged in the performance of their official duties in administering state or federal pesticide laws or rules, or while engaged in pesticide research;

(3) The manufacturer or shipper of a pesticide for experimental use only by or under supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides, provided that the manufacturer or shipper is not required to obtain an experimental use permit from the United States environmental protection agency;

(4) The manufacturer or shipper of a substance being tested in which its purpose only is to determine its value for pesticide purposes or to determine its toxicity or other properties, and from which the user does not expect to receive any benefit in pest control from its use;

(5) Persons conducting laboratory research involving pesticides;

(6) Persons who incidentally use pesticides. The incidental use shall involve only the application of general use pesticides. If a person incidentally uses a pesticide, the pesticide shall be applied in strict accordance with the manufacturer's label for general use purposes. If further applications are necessary following the incidental use application, a pesticide applicator shall apply the pesticide.

(B) No pesticide or device shall be considered 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 the pesticide or device is not so exported, this chapter applies.

(C) No person who is licensed, regulated, or registered under section 921.02, 921.03, 921.06, 921.08, 921.09, 921.11, or 921.13 of the Revised Code shall be required to obtain a license or permit to operate or to be otherwise regulated in such capacity by any local ordinance, or to meet any other condition except as otherwise provided by statute or rule of the United States or of this state.

(D) Section 921.09 of the Revised Code does not apply to an individual who uses only ground equipment for the individual or for the individual's neighbors, provided that the individual meets all of the following requirements:

(1) Is licensed under section 921.11 of the Revised Code;

(2) Operates farm property and operates and maintains pesticide application equipment primarily for the individual's own use;

(3) Is not regularly engaged in the business of applying pesticides for hire or does not publicly hold oneself out as a pesticide applicator;

(4) Meets any other requirement established by rule.

(E) Section 921.06 of the Revised Code relating to licenses and requirements for their issuance does not apply to licensed physicians or veterinarians applying pesticides to human beings or other animals during the normal course of their practice, provided that they are not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation or do not publicly hold themselves out as commercial applicators.

(F) Division (S) of section 921.24 of the Revised Code does not apply to a pesticide dealer who distributes restricted use pesticides to a nonresident who is licensed in another state having a state plan approved by the United States environmental protection agency.

Effective Date: 07-01-2004

North Dakota

4-35-06.1. Limitation on authority of political subdivisions regarding pesticides. No political subdivision, including a home rule city or county, may adopt or continue in effect any ordinance, resolution, or home rule charter regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of pesticides. This section does not apply to city zoning ordinances.

- C. It shall be the duty of the Board to audit the maintenance of records as necessary to carry out the provisions of the Oklahoma Agriculture Code.

AMENDATORY 2 O.S. 1991, Section 3-84, is amended to read as follows:

Section 3-84.

- A. The Board shall have the authority to declare any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances as a pest. The Board shall have the authority to classify pesticide uses as being general, restricted, or both, to determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of this subarticle.
- B. The Board shall promulgate appropriate rules for carrying out the provisions of this subarticle, including, but not limited to, rules providing for the collection and examination of any samples necessary to evaluate the quality, quantity, or effectiveness of pesticides or devices.
- C. There shall be uniformity between the requirements of Oklahoma, the several states, and the Federal Government relating to the coloring or discoloring of pesticides. The Board may promulgate rules applicable to and in conformity with the primary standards established by this subarticle, as have been or may be prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

AMENDATORY 2 O.S. 1991, Section 3-85, as amended by Section 2, Chapter 229, O.S.L. 1992 (2 O.S. Supp. 1999, Section 3-85), is amended to read as follows:

Section 3-85.

- A.
 - 1. The State Board of Agriculture shall administer and enforce the provisions of this subarticle and shall promulgate rules and standards for the application or sale of pesticides, rules for pesticide registration, standards for contracts and recordkeeping, work performance, prescribe standards for the licensing of application of pesticides, issuing pesticide dealer permits, certification, recertification procedures, and storing and disposal of pesticide and pesticide containers.
 - 2. The rules and standards shall conform, as a minimum, to existing state law, and to the Federal Insecticide, Fungicide and Rodenticide Act.

- 3.** The Board shall cooperate with and negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of this subarticle and securing uniformity of rules.
- 4.** The Board may inspect any work, records, or contracts of each applicator, manufacturer, or dealer to determine whether or not the work is performed according to the provisions of this subarticle.
- 5.** For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding pesticide sale or use that is more stringent than the rules of the Board, including, but not limited to, registration, notification, posting, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.
- 6.** The Board may take samples of pesticide materials in order to determine their concentration or residue level. If the Board finds that such samples are not within established standards, the Board's finding shall be considered prima facie evidence that a violation has occurred.

 - a.** The concentration of an active ingredient for a pesticide concentrate, shall not exceed or be less than the concentration of active ingredient stated on the pesticide label by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

 - (1) pesticides with a stated concentration of active ingredient less than 0.51% shall not exceed 150% or fail to meet 80% of the stated active ingredient on the pesticide label when analyzed,
 - (2) pesticides with a stated concentration of active ingredient not less than 0.51% and not more than 1.0% shall not exceed 140% or fail to meet 85% of the stated active ingredient on the pesticide label when analyzed,
 - (3) pesticides with a stated concentration of active ingredient not less than 1.01% and not more than 5.00% shall not exceed 140% or fail to meet 90% of the stated active ingredient on the pesticide label when analyzed,

Oregon

STATEWIDE REGULATION OF PESTICIDES

634.055 Legislative findings. The Legislative Assembly hereby determines that the citizens of this state benefit from a system of safe, effective and scientifically sound pesticide regulation. The Legislative Assembly further finds that a uniform, statewide system of pesticide regulation that is consistent, coordinated and comports with both federal and state technical expertise is essential to the public health, safety and welfare and that local regulation of pesticides does not materially assist in achieving these benefits. [1996 c.10 §4 (enacted in lieu of 634.007)]

634.057 State preemption of local pesticide regulation. No city, town, county or other political subdivision of this state shall adopt or enforce any ordinance, rule or regulation regarding pesticide sale or use, including but not limited to:

- (1) Labeling;
- (2) Registration;
- (3) Notification of use;
- (4) Advertising and marketing;
- (5) Distribution;
- (6) Applicator training and certification;
- (7) Licensing;
- (8) Transportation;
- (9) Packaging;
- (10) Storage;
- (11) Disclosure of confidential information; or
- (12) Product composition. [1996 c.10 §6 (enacted in lieu of 634.009)]

634.060 Actions allowed by city, town, county or other political subdivision. Notwithstanding ORS 634.057, a city, town, county or other political subdivision of this state may adopt a policy regarding the use of pesticides on property owned by the city, town, county or other political subdivision adopting the policy. [1996 c.10 §8 (enacted in lieu of 634.011)]

634.063 Exceptions to state preemption of pesticide regulation. Nothing in ORS 634.057 shall limit the authority of a city, town, county or other political subdivision of this state to adopt or enforce a local ordinance, rule or regulation strictly necessary to comply with:

- (1) The Uniform Building Code published by the International Conference of Building Officials, as amended and adopted by the Director of the Department of Consumer and Business Services;
- (2) A uniform fire code; or
- (3) Any requirement of a state or federal statute or regulation pertaining to pesticides. [1996 c.10 §10 (enacted in lieu of 634.013)]

634.065 Department consideration of concerns raised by city, town, county or political subdivision. In administering this chapter, the State Department of Agriculture shall consider any concern raised by a city, town, county or other political subdivision of the state regarding the regulation of pesticides. [1996 c.10 §12 (enacted in lieu of 634.015)]

§ 7120. Delegation of duties; exclusion of local laws and regulations.

(a) Designation.--All authority vested in the secretary by virtue of the provisions of this chapter may with like force and effect be executed by such employees of the Commonwealth as the secretary may from time to time designate for said purpose.

(b) Statewide jurisdiction and preemption.--This chapter and its provisions are of Statewide concern and occupy the whole field of regulation regarding the registration, labeling, sale, storage, transportation, distribution, notification of use and use of seeds to the exclusion of all local regulations. Except as otherwise specifically provided in this chapter, no ordinance or regulation of any political subdivision or home rule municipality may prohibit or in any way attempt to regulate any matter relating to the registration, labeling, sale, storage, transportation, distribution, notification of use or use of seeds if any of these ordinances, laws or regulations are in conflict with this chapter.

Rhode Island

TITLE 23

Health and Safety

CHAPTER 23-25

Pesticide Control

SECTION 23-25-35

§ 23-25-35 Repeal of inconsistent acts. – Jurisdiction in all matters pertaining to the registration, sale, distribution, transportation, storage, use and application, disposal of pesticides and devices, and licensing and certification of applicators is, by this chapter, vested exclusively in the director, and all acts and parts of acts inconsistent with this chapter are expressly repealed.

History of Section.

(P.L. 1976, ch. 191, § 2; G.L. 1956, § 23-41.1-35; P.L. 1979, ch. 39, § 1.)

South Carolina

SECTION 46-13-240. Federal, interstate and intrastate cooperation.

The Director may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this State or its subdivisions, or with any agency of another state, to obtain assistance in the implementation of this chapter and in order:

- A. To secure uniformity of regulations;
- B. To cooperate in the enforcement of the Federal Pesticide Control Laws through the use of state and federal personnel and facilities and to implement cooperative enforcement programs;
- C. To develop and administer state programs for training and certification of certified applicators consistent with federal standards;
- D. To contract for training with other agencies including federal agencies for the purpose of training certified applicators;
- E. To contract for monitoring pesticides for the national plan;
- F. To prepare and submit state plans to meet federal certification standards; and
- G. To regulate certified applicators.

HISTORY: 1975 (59) 284.

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TENNESSEE STATUTES AND CODES

43-8-114 - Local regulation of pesticides.

43-8-114. Local regulation of pesticides.

(a) Except as provided in § 43-8-115 or § 62-21-118(b), no city, town, county or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation or statute regarding pesticide sale or use, including, but not limited to, registration, notification of use, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information or product composition.

(b) No provision of this section shall be construed to limit the authority of a city, town or county to zone for storage of such products or to provide or designate sites for disposal of such products, to regulate discharge to a sanitary sewer system or to implement an approved pesticide management plan as may be required by the Safe Drinking Water Act.

(c) This section does not apply to any municipality having a population of not less than sixteen thousand five hundred (16,500) nor more than seventeen thousand five hundred (17,500), according to the 1990 federal census or any subsequent federal census.

[Acts 1992, ch. 667, §§ 2, 5.]

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 85, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 419, Sec. 3.14, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1369, Sec. 1, eff. Sept. 1, 1997.

Sec. 76.077. EXCEPTIONS. (a) This subchapter does not apply to a manufacturer or formulator of a pesticide who does not sell directly to the user.

(b) This subchapter does not apply to a licensed pesticide applicator who:

(1) distributes restricted-use or state-limited-use pesticides or regulated herbicides only as an integral part of the pesticide application business; and

(2) dispenses the pesticides only through equipment used in the pesticide application business.

(c) This subchapter does not apply to a federal, state, county, or municipal agency that provides pesticides only for its own programs.

Acts 1981, 67th Leg., p. 1196, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1997, 75th Leg., ch. 1369, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. USE AND APPLICATION

Sec. 76.101. COORDINATION. (a) The department is the lead agency in the regulation of pesticide use and application and is responsible for coordinating activities of state agencies, except as provided by Section 76.007(b) of this code and by Chapter 26 of the Water Code. The department shall submit a state plan for the licensing of pesticide applicators to the administrator of the Environmental Protection Agency.

(b) The department shall coordinate, plan, and approve training programs and shall use the public and private resources of this state, including state universities, colleges, junior colleges, community colleges, the Texas Agricultural Extension Service, and the Texas Agricultural Experiment Station. The department and the Texas Agricultural Extension Service shall adopt

a memorandum of understanding to jointly coordinate, plan, and approve the training programs for private applicators.

(c) The department shall make plans under this section on the basis of convenience to applicants, thoroughness of preparation and testing, and maximum economy in expenditures for this purpose. The department shall make full use of grants-in-aid and cooperative agreements in administering this subchapter.

(d)(1) Except as otherwise provided by this subsection, no city, town, county, or other political subdivision of this state shall adopt any ordinance, rule, or regulation regarding pesticide sale or use.

(2) Nothing in this subsection shall be construed to limit the authority of a city, town, or county to:

(A) encourage locally approved and provided educational material concerning a pesticide;

(B) zone for the sale or storage of such products;

(C) adopt fire or building regulations as preventative measures to protect the public and emergency services personnel from an accident or emergency involving such products, including regulations governing the storage of such products or governing fumigation and thermal insecticidal fogging operations;

(D) provide or designate sites for the disposal of such products;

(E) route hazardous materials; or

(F) regulate discharge to sanitary sewer systems.

(3) This subsection shall not prevent a city, town, county, or any political subdivision from complying with any federal or state law or regulation. This subsection shall not prevent a city, town, county, or any political subdivision from attaining or maintaining compliance with federal or state environmental standards including Texas water quality standards. A city, town, county, or other political subdivision may take any action otherwise prohibited by this subsection in order to comply with any federal requirements, to avoid any federal or state penalties or fines, or to attain or maintain federal or state

Virginia

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§ 3.2-3907. Delegation of authority; exclusive authority to regulate.

The Board may delegate any authority vested in it under this chapter to the Commissioner or other employees of the Department. The Board shall have the exclusive authority to regulate pesticides in accordance with this chapter. The Board's authority to regulate pesticides under this chapter shall not be delegated to any locality.

(1989, c. 575, § 3.1-249.33; 1992, c. 289; 2008, c. 860.)

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RCW 15.58.040

Director's authority — Rules.

(1) The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter. All the authority and requirements provided for in chapter [34.05](#) RCW (Administrative Procedure Act) and chapter [42.30](#) RCW shall apply to this chapter in the adoption of rules including those requiring due notice and a hearing for the adoption of permanent rules.

(2) The director is authorized to adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require rules restricting or prohibiting their distribution or use. The director may include in the rule the time and conditions of distribution or use of such restricted use pesticides and may, if it is found necessary to carry out the purpose and provisions of this chapter, require that any or all restricted use pesticides shall be purchased, possessed, or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter;

(j) Regulating the labeling of devices;

(k) The establishment of criteria governing the conduct of a structural pest inspection;

(l) Declaring crops, when grown to produce seed specifically for crop reproduction purposes, to be nonfood and/or nonfeed sites of pesticide application. The director may include in the rule any restrictions or conditions regarding: (i) The application of pesticides to the designated crops; and (ii) the disposition of any portion of the treated crop;

(m) Fixing and collecting examination fees; and

(n) Requiring individuals to earn recertification credits in the classifications in which they are licensed.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States environmental protection agency or any other federal agency.

[2003 c 212 § 2; 2000 c 96 § 8; 1997 c 242 § 1; 1996 c 188 § 4; 1991 c 264 § 2; 1989 c 380 § 2; 1971 exs. c 190 § 4.]



§19-16-4a. Local laws prohibited.

(a) No political subdivision may regulate the registration, packaging, labeling, sale, storage, distribution, transportation or any other use of seeds.

(b) No political subdivision may adopt or continue in effect any local laws, ordinances or regulations relating to the regulating, registration, packaging, labeling, sale, storage, distribution, transportation or any other use of seeds.

(c) Local laws, ordinances or regulations in violation of this section are void and unenforceable.

94.70 PLANT INDUSTRY

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which the person does not expect to receive any pest control benefit from its use.

(3) No person may:

(a) Detach, alter, deface or destroy, in whole or in part, any label or labeling required under the federal act or under ss. 94.67 to 94.71 or rules under ss. 94.67 to 94.71, or add any substance to or take any substance from any pesticide in a manner that may defeat the purposes of the laws.

(b) Use for personal advantage or reveal, other than to federal or state agencies, the courts, physicians, pharmacists or other persons requiring the information for the performance of their duties, any information relative to formulas acquired in the administration of ss. 94.67 to 94.71 which may be confidential under the federal act or otherwise constitute a trade secret as defined in s. 134.90 (1) (c).

(c) Advertise pesticides registered for restricted-use as a registrant, manufacturer, wholesaler, dealer, retailer or other distributor without disclosing that the pesticides are classified as restricted-use pesticides.

(d) Use or make available for use any restricted-use pesticide contrary to its labeling or other restrictions or exemptions imposed on its use under the federal act or the laws of this state.

(e) Claim falsely to be a certified applicator in one or more uses of any pesticide.

(f) Use or direct the use of pesticides as a certified applicator in categories of pesticide use and application for which no certification has been obtained.

(g) Use any pesticide in a manner inconsistent with its labeling except as authorized by the department.

(h) Use any pesticide under an experimental use permit contrary to the provisions of the permit.

(i) Fail to maintain records or file reports as required under ss. 94.67 to 94.71 or rules under ss. 94.67 to 94.71 or falsify records or reports or any application filed with the department.

(j) Violate any other provisions of ss. 94.67 to 94.71 or orders or rules issued under ss. 94.67 to 94.71.

History: 1975 c. 94 s. 91 (10); 1977 c. 106; 1985 a. 236; 1987 a. 27.

Cross-reference: See also chs. ATCP 29, 30, and 31 and ss. ATCP 160.19 and 160.21, Wis. adm. code.

A “negligence per se” instruction was appropriate when a violation of sub. (3) (g) damaged a beekeeper’s hives. *Bennett v. Larsen Co.* 118 Wis. 2d 681, 348 N.W.2d 540 (1984).

Sub. (1) (b) was, as a matter of law, violated by the defendant when the federal label, which represented the minimum information that could have been submitted to the department, provided that application of the herbicide after 50% emergence might reduce yields, when a representative of the defendant told the plaintiff that the plaintiff’s potatoes would only be singed a little by applying the herbicide after 50% emergence. *Perzinski v. Chevron Chemical Co.* 503 F.2d 654.

94.701 Pesticides; local regulation. (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of pesticides.

(2) In this section, “political subdivision” means a city, village, town or county.

(3) (a) Except as provided in par. (b) or (c), a political subdivision may not prohibit the use of or otherwise regulate pesticides.

(b) A political subdivision may enact an ordinance that does any of the following:

1. Regulates pesticide use on property in which the political subdivision has a fee simple ownership interest.

2. Zones areas with respect to pesticide manufacturing, distribution and disposal.

3. Implements any regulation of pesticides that the political subdivision is required by federal law or other state laws to implement.

4. Implements a cooperative agreement with the federal environmental protection agency under 7 USC 136u (a).

5. Prohibits conduct that is the same as conduct prohibited under ss. 94.69 to 94.71 or 7 USC 136 to 136y.

6. Requires that, when notification of pesticide use is required by state or federal law, notification of that use be given to the political subdivision.

7. Sets standards for fire prevention in the storage of a pesticide that poses a fire hazard.

8. Regulates pesticides pursuant to a storm water management program that is consistent with 40 CFR 122.26.

(c) A political subdivision may enact an ordinance or enter into an agreement under s. 289.33 (9) relating to the storage, treatment or disposal of solid waste containing pesticides, pesticide containers or pesticide residues.

(4) (a) 1. No later than March 1, 1994, a political subdivision shall provide the department with a copy of any ordinance that is authorized under sub. (3) and that is enacted before December 29, 1993.

2. A political subdivision may not enact an ordinance that is authorized under sub. (3) until it consults with the department. If a political subdivision enacts an ordinance that is authorized under sub. (3), it shall provide the department with a copy of the ordinance no later than 60 days after enactment.

(b) Before March 1 of each year, a political subdivision with an ordinance that is authorized under sub. (3) (b) 5. shall notify the department of all enforcement actions taken under that ordinance during the preceding year.

History: 1993 a. 116; 1995 a. 227.

Cross-reference: See also chs. ATCP 29, 30, and 31 and ss. ATCP 160.19 and 160.21, Wis. adm. code.

A local government is not preempted by sub. (3) (a) from regulating the phosphorus content in weed and feed products. A weed and feed product is both a pesticide, which under sub. (3) (a), only the state can regulate, and a fertilizer, which local government can regulate. The definition of both “pesticide” and “fertilizer” as including a mixture of the two preserves both state regulation of pesticides and local regulation of fertilizers. The state regulates the pesticide components of the mixed products, local government the fertilizer components. *Croplife America, Inc. v. City of Madison*, 432 F.3d 732 (2005).

94.703 Pesticides; licensing of commercial application businesses. (1) No commercial application business may operate in this state without a license issued by the department under this section. A natural person who operates a commercial application business as sole proprietor, and who is also an individual commercial applicator, shall be licensed under this section and s. 94.704. A license issued under this section expires on December 31 annually and is not transferable.

(2) An application for a license under this section shall be submitted on a form provided by the department and shall be accompanied by the license fee required under sub. (3). The license application shall include all of the following information, which shall be promptly updated by the licensee in the event of any change during the license period:

(a) The complete name, mailing address and street address of the licensee, and the business name, if any, under which the licensee operates as a commercial application business. The application shall specify whether the applicant is a natural person, corporation or other legal entity.

(b) The street address of every business location from which the licensee operates as a commercial applicator for hire in this state or, if the business location has no street address, its legal description.

(c) If the licensee employs any person to use pesticides, or to direct the use of restricted-use pesticides, the complete name and license number under s. 94.704 of each person so employed.

(d) Any other information reasonably required by the department for the administration of this section.

(3) (a) A person applying for an annual license under this section shall pay the following annual license fee and surcharge for each business location that the person operates in this state, including each business location added during the license year:

1. A license fee of \$70.