



HOUSE BILL No. 4344

February 24, 1993, Introduced by Reps. Alley, Middaugh, DeMars, Randall and Allen and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 18 and 19 of Act No. 171 of the Public Acts of 1976, entitled as amended

"Pesticide control act,"

as amended by Act No. 449 of the Public Acts of 1988, being sections 286.568 and 286.569 of the Michigan Compiled Laws; and to add section 21a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 18 and 19 of Act No. 171 of the Public
2 Acts of 1976, as amended by Act No. 449 of the Public Acts of
3 1988, being sections 286.568 and 286.569 of the Michigan Compiled
4 Laws, are amended and section 21a is added to read as follows:

5 Sec. 18. (1) The director may DO ALL OF THE FOLLOWING:

6 (a) Declare as a pest any form of plant or animal life,
7 except virus, nematodes, bacteria, or other microorganisms on or

1 in living human beings or other animals, which is injurious to
2 health or the environment.

3 (b) Determine the toxicity of pesticides to human beings.
4 The director shall use the data in support of registration and
5 classification as a guide in this determination.

6 (c) Determine pesticides, and quantities of substances con-
7 tained in pesticides, which are injurious to the environment.
8 The director shall use the EPA regulations as a guide in this
9 determination.

10 (d) Enter into cooperative agreements with agencies of the
11 federal government or any other agency of this state, or an
12 agency of another state for the purpose of carrying out this act
13 and securing uniformity of rules.

14 (e) Enter upon any public or private premises or other
15 place, including vehicles of transport, where pesticides or
16 devices are being used or held for distribution or sale, for the
17 purposes of inspecting and obtaining samples of pesticides or
18 devices or to inspect equipment or methods of application.

19 (f) Allow only certified applicators to apply a pesticide
20 that is classified as a restricted use pesticide pursuant to
21 subsection (2).

22 (2) In addition to any other authority provided by this act,
23 the director, by administrative order, may classify a pesticide
24 as a restricted use pesticide in accordance with any 1 of the
25 restrictive criteria in 53 F.R. 152.170, p. 15987 (May 4, 1988).

26 (3) Prior to classifying a pesticide as a restricted use
27 pesticide under subsection (2), the director shall issue a

1 preliminary administrative order and provide for a 30-day period
2 for public comment and review pertaining to the preliminary
3 order. Prior to issuing the final administrative order, the
4 director shall review and consider any public comments received
5 during the 30-day period. An administrative order classifying a
6 pesticide as a restricted use pesticide shall cite each of the
7 provisions of subsection (2) that justify that classification.

8 (4) THE DEPARTMENT OF AGRICULTURE SHALL DEVELOP A PROGRAM ON
9 PESTICIDE CONTAINER RECYCLING AND DISPOSAL EXCEPT THAT THE PRO-
10 GRAM SHALL NOT REQUIRE A RETAIL FOOD ESTABLISHMENT REGULATED BY
11 THE MICHIGAN FOOD LAW OF 1968, ACT NO. 39 OF THE PUBLIC ACTS OF
12 1968, BEING SECTIONS 289.701 TO 289.727 OF THE MICHIGAN COMPILED
13 LAWS, TO ACCEPT RETURN CONTAINERS.

14 Sec. 19: (1) The director may promulgate rules for carrying
15 out this act, including, but not limited to, rules providing for
16 THE FOLLOWING:

17 (a) The collection, examination, and reporting the results
18 of examination of samples of pesticides or devices.

19 (b) The safe handling, transportation, storage, display,
20 distribution, and disposal of pesticides and their containers.

21 (c) The designation of restricted use pesticides for the
22 state or for specified areas within the state. The director may
23 include in the rule the time and conditions of sale, distribu-
24 tion, and use of restricted use pesticides.

25 (d) The certification and licensing of applicators, and the
26 licensing of restricted use pesticide dealers.

1 (e) The maintenance of records by certified commercial
2 applicators with respect to applications of restricted use
3 pesticides.

4 (f) Good practice in the use of pesticides.

5 (G) NOTIFICATION OR POSTING, OR BOTH, DESIGNED TO INFORM
6 PERSONS ENTERING CERTAIN PUBLIC AND PRIVATE BUILDINGS OR AREAS
7 WHERE PESTICIDES HAVE BEEN APPLIED.

8 (H) ~~(g)~~ Use of a pesticide in a manner consistent with its
9 labeling including adequate supervision of noncertified applica-
10 tors where appropriate.

11 (2) Not later than 1 year after ~~the effective date of the~~
12 ~~amendatory act that added this subsection~~ DECEMBER 27, 1988, the
13 director shall submit rules to the joint committee on administra-
14 tive rules pertaining to all of the following:

15 (a) The development of a training program for applicators
16 who apply pesticides for private agricultural purposes on the use
17 of appropriate procedures for the application of pesticides;
18 safety procedures for pesticide application; clothing and protec-
19 tive equipment for pesticide application; the detection of common
20 symptoms of pesticide poisoning; the means of obtaining emergency
21 medical treatment; hazards posed by pesticides to workers, the
22 public health, and the environment; specific categories of pesti-
23 cides; and the requirements of applicable laws, rules, and
24 labeling.

25 (b) The development of training programs for integrated pest
26 management systems in schools, public buildings, and health care
27 facilities.

1 (c) The duty of commercial applicators to inform customers
2 of potential risks and benefits associated with the application
3 of pesticides.

4 (3) Not later than 18 months after ~~the effective date of~~
5 ~~the amendatory act that added this subsection~~ DECEMBER 27, 1988,
6 the director shall submit rules to the joint committee on admin-
7 istrative rules pertaining to the protection of agriculture
8 employees who hand harvest agricultural commodities regarding all
9 of the following:

10 (a) The establishment of field reentry periods after the
11 application of agricultural pesticides.

12 (b) The posting and notification of areas where pesticides
13 have been applied.

14 (c) The use of protective clothing, safety devices, hand
15 washing, or other methods of protection from pesticide exposure.

16 (d) Notification of agricultural workers of poison treatment
17 facilities.

18 (4) If the EPA at any time adopts and publishes agricultural
19 worker protection standards, the federal standards shall super-
20 sede rules promulgated under subsection (3).

21 (5) Not later than 1 year after ~~the effective date of the~~
22 ~~amendatory act that added this section~~ DECEMBER 27, 1988, the
23 director shall submit rules to the joint committee on administra-
24 tive rules. These rules shall include all of the following:

25 (a) Minimum standards of competency and experience or exper-
26 tise for trainers of certified and registered applicators.

1 (b) The development of a training program for applicators on
2 the use of appropriate procedures for the application of
3 pesticides; safety procedures for pesticide application; clothing
4 and protective equipment for pesticide application; the detection
5 of common symptoms of pesticide poisoning; the means of obtaining
6 emergency medical treatment; hazards posed by pesticides to work-
7 ers, the public health, and the environment; specific categories
8 of pesticides; and the requirements of applicable laws, rules,
9 and labeling.

10 (c) The number of directly supervised application hours
11 required before a registered applicator may apply each category
12 of restricted use pesticide without direct supervision.

13 SEC. 21A. (1) A LOCAL UNIT OF GOVERNMENT SHALL NOT ENACT,
14 MAINTAIN, OR ENFORCE AN ORDINANCE, REGULATION, OR RESOLUTION THAT
15 CONTRADICTS OR CONFLICTS IN ANY MANNER WITH THIS ACT. IT IS THE
16 EXPRESS LEGISLATIVE INTENT THAT THIS ACT PREEMPT ANY LOCAL ORDI-
17 NANCE, REGULATION, OR RESOLUTION THAT PURPORTS TO DUPLICATE,
18 EXTEND, OR REVISE IN ANY MANNER THE PROVISIONS OF THIS ACT.

19 (2) NOTWITHSTANDING SUBSECTION (1), A LOCAL UNIT OF GOVERN-
20 MENT MAY ENACT AN ORDINANCE REGULATING THE DISTRIBUTION, SALE,
21 STORAGE, HANDLING, USE, APPLICATION, TRANSPORTATION, OR DISPOSAL
22 OF PESTICIDES UNDER EITHER OR BOTH OF THE FOLLOWING
23 CIRCUMSTANCES:

24 (A) UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT WILL
25 EXIST WITHIN THE LOCAL UNIT OF GOVERNMENT.

1 (B) THE LOCAL UNIT OF GOVERNMENT HAS DETERMINED THAT THE USE
2 OF A PESTICIDE WITHIN THAT UNIT OF GOVERNMENT HAS RESULTED IN THE
3 VIOLATION OF OTHER EXISTING STATE LAWS OR FEDERAL LAWS.

4 (3) AN ORDINANCE ENACTED PURSUANT TO SUBSECTION (2) SHALL
5 NOT CONFLICT WITH EXISTING STATE LAWS OR FEDERAL LAWS AND SHALL
6 NOT BE ENFORCED BY A LOCAL UNIT OF GOVERNMENT UNTIL APPROVED BY
7 THE COMMISSION OF AGRICULTURE. IF THE COMMISSION OF AGRICULTURE
8 DENIES AN ORDINANCE ENACTED PURSUANT TO SUBSECTION (2), THE COM-
9 MISSION OF AGRICULTURE SHALL PROVIDE A DETAILED EXPLANATION OF
10 THE BASIS OF THE DENIAL.

11 (4) NOTHING IN THIS SECTION PREVENTS THE DIRECTOR FROM CON-
12 TRACTING WITH A LOCAL UNIT OF GOVERNMENT TO ACT AS ITS AGENT FOR
13 THE PURPOSE OF ENFORCING THIS ACT AND THE RULES PROMULGATED PUR-
14 SUANT TO THIS ACT.