

JAN 19 2018

A BILL FOR AN ACT

RELATING TO PESTICIDES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature recognizes that, in November
2 2016, the Environmental Protection Agency released a revised
3 human health risk assessment for chlorpyrifos, a chemical
4 pesticide. In its revised risk assessment, the Environmental
5 Protection Agency confirmed that there are no safe uses of
6 chlorpyrifos.

7 Specifically, the Environmental Protection Agency found
8 that:

- 9 (1) All food and drinking water exposures to chlorpyrifos
10 exceed safe levels;
- 11 (2) Pesticide drift reaches unsafe levels at three hundred
12 feet from the field's edge;
- 13 (3) Chlorpyrifos is found at unsafe levels in the air at
14 schools, homes, and communities in agricultural areas;
- 15 (4) All workers who mix and apply chlorpyrifos are exposed
16 to unsafe levels of the pesticide even with maximum



1 personal protective equipment and engineering controls
2 in place;

3 (5) Field workers are allowed to re-enter fields within
4 one to five days after pesticide spraying, but unsafe
5 exposures continue on average for eighteen days after
6 applications; and

7 (6) Chlorpyrifos is acutely toxic and associated with
8 neurodevelopmental harms in children.

9 As such, the legislature recognizes that children, farm workers,
10 and residents in agricultural communities are uniquely
11 vulnerable to chlorpyrifos.

12 The purpose of this Act is to ban the distribution, sale,
13 use, storage, and manufacturing of chlorpyrifos within the
14 State.

15 SECTION 2. Section 149A-11, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§149A-11 Prohibited acts.** (a) Except as otherwise
18 exempted in section 149A-12, it shall be unlawful for any person
19 to distribute, solicit, sell, offer for sale, hold for sale,
20 transport, deliver for transportation, or receive and having so
21 received, deliver or offer to deliver to any person in



1 intrastate commerce or between points within this State through
2 any point outside this State any of the following:

3 (1) Any pesticide which is not licensed pursuant to
4 section 149A-13, or any pesticide if any of the claims
5 made for it or any of the directions for its use
6 differ in substance from the representations made in
7 connection with its licensing, or if the composition
8 of a pesticide differs from its composition as
9 represented in connection with its licensing; provided
10 that in the discretion of the department, a change in
11 the labeling or formula of a pesticide may be made
12 within a licensing period without requiring an
13 additional licensing of the product.

14 (2) Any pesticide unless it is in the licensee's or the
15 manufacturer's unbroken immediate container, and there
16 is affixed to the container and to the outside
17 container or wrapper of the retail package, if any,
18 through which the required information on the
19 immediate container cannot be clearly read, a label
20 bearing information pursuant to section 149A-15.



- 1 (3) Any pesticide which contains any substance or
2 substances in quantities highly toxic to humans,
3 determined as provided in section 149A-19, unless the
4 label bears, in addition to any other matter required
5 by this chapter:
- 6 (A) A symbol of the skull and crossbones;
7 (B) The word "POISON" prominently, in red, on a
8 background of distinctly contrasting color; and
9 (C) A statement of emergency medical treatment or an
10 antidote when appropriate for the pesticide.
- 11 (4) Pesticides containing any of the ingredients commonly
12 known as standard lead arsenate, basic lead arsenate,
13 calcium arsenate, magnesium arsenate, zinc arsenate,
14 zinc arsenite, sodium fluoride, sodium fluosilicate,
15 or barium fluosilicate, unless they have been
16 distinctly colored or discolored, or any other white
17 powder pesticide which the board requires to be
18 distinctly colored or discolored after investigation
19 of and after a public hearing on the necessity for and
20 feasibility of coloring or discoloring the pesticide
21 for the protection of the public health, unless it has



1 been so colored or discolored pursuant to section
2 149A-16.

3 (5) Any pesticide or device which is adulterated or
4 misbranded as defined in section 149A-2.

5 (6) Any pesticide or device that is an imitation of
6 another pesticide or device.

7 (7) Any restricted use pesticide unless the person has a
8 permit issued in accordance with section 149A-17.

9 (8) Any restricted use pesticide to persons other than a
10 certified pesticide applicator or any uncertified
11 personnel under the certified pesticide applicator's
12 supervision, or a licensed dealer, wholesaler, or
13 retailer.

14 (9) Chlorpyrifos.

15 (b) It shall be unlawful to:

16 (1) Detach, alter, deface, or destroy, in whole or in
17 part, any label or alter any labeling of a pesticide
18 unless it is approved by the department to correct an
19 improper label or labeling under section 24(c), FIFRA;



- 1 (2) Add any substance to, or take any substance from, a
2 pesticide in a manner that may defeat the purpose of
3 this chapter;
- 4 (3) Use for a person's own advantage or reveal any
5 information relative to formulas of products acquired
6 in the administration of this chapter, to persons
7 other than to the chairperson or proper officials or
8 employees of the State or the federal government; to
9 the courts of this State or the federal government in
10 response to a subpoena; to physicians; or, in
11 emergencies, to pharmacists and other qualified
12 persons for use in the preparation of antidotes;
- 13 (4) For any pesticide dealer, wholesaler, or retailer to
14 expose or to offer for sale or to solicit or receive
15 orders for the sale of restricted use pesticides
16 unless the dealer, wholesaler, or retailer has applied
17 for and has obtained a license from the department;
- 18 (5) For any pesticide dealer, wholesaler, or retailer to
19 expose or to offer for sale or to solicit or receive
20 orders for the sale of restricted use pesticides to



- 1 any person other than a certified pesticide
2 applicator;
- 3 (6) For any pesticide dealer, wholesaler, or retailer to
4 make any verbal or written claim or representation
5 relating to any pesticide product that is inconsistent
6 with the specific pesticide product label; or
- 7 (7) For any pesticide dealer to expose to, offer for sale
8 to, or solicit or receive orders for the sale of
9 restricted use pesticides to any pest control operator
10 or to an employee of the pest control operator acting
11 on the pest control operator's behalf without
12 satisfactory proof that the pest control operator
13 holds, or has held within the previous one hundred
14 twenty days, a pest control license and, when
15 applicable, without satisfactory proof that the
16 employee is employed by the pest control operator.
- 17 (8) Use, store, or manufacture chlorpyrifos within this
18 State."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



S.B. NO. 2456

1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect on November 1, 2018.

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S.B. NO. 2456

Report Title:

Agriculture; Pesticides; Ban on Chlorpyrifos

Description:

Bans import, use, manufacture, sale, and storage of chlorpyrifos in the State.

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