
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1 SECTION 1. Chapter 149A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . PESTICIDE REPORTING AND REGULATION PROGRAM

5 §149A-A Definitions. As used in this part:

6 "Commercial agricultural entity" means any individual,
7 partnership, association, corporation, limited liability
8 company, or organized group of persons, regardless of whether
9 incorporated, that:

- 10 (1) Is engaged in commercial agricultural production; and
11 (2) Purchased or used in excess of thirty-five pounds or
12 thirty-five gallons of non-diluted restricted use
13 pesticide during the prior calendar year.

14 "Commercial agricultural production" means:

- 15 (1) Commercial production of any seed, crop, plant,
16 timber, livestock, poultry, fish, bees, or apiary
17 products; or



1 (2) Testing or experimental production of any seed, crop,
2 plant, timber, livestock, poultry, fish, bees, or
3 apiary products.

4 "School" means any public or private kindergarten,
5 elementary, or secondary school, excluding home schools.

6 **§149A-B Post-application reporting of pesticide use.** (a)
7 Effective one year following the effective date of Act ,
8 Session Laws of Hawaii 2018, a commercial agricultural entity
9 shall submit to the department annual disclosures of all use of
10 restricted use pesticides as provided in this section.

11 (b) No later than thirty days following the end of each
12 calendar year, every commercial agricultural entity subject to
13 this section shall provide to the department a report of all
14 restricted use pesticides used in outdoor applications during
15 the preceding calendar year. The report shall:

- 16 (1) Comply with section 149A-C; and
- 17 (2) Be deemed a public record.

18 **§149A-C Public reports; contents.** The department shall
19 adopt rules, pursuant to chapter 91, requiring that the annual
20 reports submitted pursuant to section 149A-B include the
21 following information:



1 (1) A listing of all restricted use pesticides used in
2 outdoor applications, by federal and state
3 registrations or permit numbers, commercial product
4 names, and active ingredients;

5 (2) The total quantities used for each restricted use
6 pesticide; and

7 (3) A general description of the geographic location,
8 including, at a minimum, the tax map key number, at
9 which the restricted use pesticides were used.

10 **§149A-D Buffer zones.** Effective one year following the
11 effective date of Act , Session Laws of Hawaii 2018, no person
12 shall apply a restricted use pesticide within one hundred feet
13 of a school, as measured from the outside perimeter of the
14 proposed treated area up to the property line of the adjacent
15 school, during school instructional hours; provided that if this
16 section is determined to conflict with any pesticide application
17 information listed on the pesticide label, the more restrictive
18 provision shall apply.

19 **§149A-E Rules.** The department shall adopt rules pursuant
20 to chapter 91 to implement this part."



1 SECTION 2. Section 149A-13.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) There is established within the treasury of the
5 State, a pesticide use revolving fund. The fund shall be
6 administered by the department for the purposes of this section.

7 The fund shall consist of:

8 (1) Licensing and registration fees and charges collected
9 by the department under section 149A-13(b);

10 (2) All fees collected by the department through the
11 collection of training fees in accordance with
12 subsection (c); ~~and~~

13 (3) Funds appropriated for the pesticide subsidy program
14 established under Act 105, Session Laws of Hawaii
15 2014 ~~[-]~~; and

16 (4) All penalties and fines collected by the department
17 under section 149A-41.

18 (b) Moneys in the pesticide use revolving fund shall be
19 expended by the department ~~[to]~~:

20 (1) To support the pesticide program's registration and
21 licensing, certification and education, and compliance



1 monitoring activities [~~. The department shall also~~
2 ~~expend revolving fund moneys on the establishment of~~];

3 (2) To establish pesticide training workshops [7] and
4 educational programs [~~, development of~~];

5 (3) To develop integrated pest management strategies, the
6 pesticide subsidy program created under Act 105,
7 Session Laws of Hawaii 2014, and other services for
8 pesticide users such as the agricultural pest control
9 industry, the structural pest control industry, and
10 consumer users of pesticides, which provide pesticide
11 instruction in areas including but not limited to the
12 collection, disposal, and recycling of pesticide
13 containers; and

14 (4) For all other pesticide services deemed necessary by
15 the department.

16 Moneys from the revolving fund may be used for personnel,
17 services, materials, and equipment for the purposes of this
18 section [~~, provided that the use of moneys from the revolving~~
19 ~~fund for personnel costs shall be limited to those employees~~
20 ~~under the registration and education section of the department's~~
21 ~~pesticides branch]~~.



1 Moneys expended by the department from the pesticide use
2 revolving fund for training workshops, educational programs, and
3 other services for the agricultural pest control industry, the
4 structural pest control industry, and consumer groups shall be
5 expended in a manner that appropriately addresses the needs of
6 each category of pesticide user."

7 2. By amending subsection (e) to read:

8 "(e) All unobligated, unencumbered, or unexpended funds
9 remaining in the fund in excess of [~~\$250,000~~] \$1,000,000 at the
10 close of each fiscal year shall lapse to the state general
11 fund."

12 SECTION 3. Section 149A-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§149A-31 Prohibited acts.** No person shall:

15 (1) Use any pesticide in a manner inconsistent with its
16 label, except that it shall not be unlawful to:

17 (A) Apply a pesticide at any dosage, concentration,
18 or frequency less than that specified on the
19 label or labeling; provided that the efficacy of
20 the pesticide is maintained [~~and further~~];
21 provided further that[~~7~~] when a pesticide is



- 1 applied by a commercial applicator, the deviation
2 from the label recommendations [~~must~~] shall be
3 with the consent of the purchaser of the
4 pesticide application services;
- 5 (B) Apply a pesticide against any target pest not
6 specified in the labeling if the application is
7 to a crop, animal, or site specified on the label
8 or labeling; provided that the label or labeling
9 does not specifically prohibit the use on pests
10 other than those listed on the label or labeling;
- 11 (C) Employ any method of application not prohibited
12 by the labeling;
- 13 (D) Mix a pesticide or pesticides with a fertilizer
14 when [~~such~~] the mixture is not prohibited by the
15 label or labeling; or
- 16 (E) Use in a manner determined by rule not to be an
17 unlawful act;
- 18 (2) Use, store, transport, or discard any pesticide or
19 pesticide container in any manner [~~which~~] that would
20 have unreasonable adverse effects on the environment;



- 1 (3) Use or apply restricted use pesticides unless the
2 person is a certified pesticide applicator or under
3 the direct supervision of a certified pesticide
4 applicator with a valid certificate issued pursuant to
5 rules adopted under section 149A-33(1); provided that
6 it shall be prohibited to use or apply a restricted
7 use pesticide for structural pest control uses for a
8 fee or trading of services, unless the user or
9 applicator is a pest control operator or is employed
10 by a pest control operator licensed under chapter
11 460J;
- 12 (4) Use or apply pesticides in any manner that has been
13 suspended, canceled, or restricted pursuant to section
14 149A-32.5;
- 15 (5) Falsify any record or report required to be made or
16 maintained by rules adopted pursuant to this chapter;
17 [~~or~~]
- 18 (6) Fill with water, through a hose, pipe, or other
19 similar transmission system, any tank, implement,
20 apparatus, or equipment used to disperse pesticides,
21 unless the tank, implement, apparatus, equipment,



1 hose, pipe, or other similar transmission system is
2 equipped with an air gap or a reduced-pressure
3 principle backflow device meeting the requirements
4 under section 340E-2 and the rules adopted
5 thereunder[-]; or

6 (7) Beginning January 1, 2019, use or apply any pesticide
7 containing chlorpyrifos as an active ingredient;
8 provided that:

9 (A) The department shall grant to any person, upon
10 request, a temporary permit authorizing the
11 person, until December 31, 2021, to use or apply
12 a pesticide containing chlorpyrifos as an active
13 ingredient;

14 (B) The department shall publicly disclose the names
15 of all persons applying for or granted a
16 temporary permit pursuant to subparagraph (A);
17 and

18 (C) Any person who violates this paragraph shall be
19 subject to a penalty pursuant to section 149A-
20 41."



1 SECTION 4. There is appropriated out of the pesticide use
2 revolving fund the sum of \$105,648 or so much thereof as may be
3 necessary for fiscal year 2018-2019 to be expended for the
4 purposes of this Act, including for the establishment of
5 two full-time equivalent (2.0 FTE) positions in the department
6 of agriculture.

7 The sum appropriated shall be expended by the department of
8 agriculture for the purposes of this Act.

9 SECTION 5. There is appropriated out of the pesticide use
10 revolving fund the sum of \$300,000 or so much thereof as may be
11 necessary for fiscal year 2018-2019 for outreach and education
12 to effectuate this Act.

13 The sum appropriated shall be expended by the department of
14 agriculture for the purposes of this Act.

15 SECTION 6. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 7. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 8. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 9. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 10. This Act shall take effect on July 1, 2018.



Report Title:

Mandatory Pesticide Disclosure; Pesticide Reporting and Regulation Program; Chlorpyrifos; Pesticide Use Revolving Fund; Appropriation

Description:

Requires commercial agricultural entities to report on their use of restricted use pesticides to the Department of Agriculture (DOA). Prohibits the use of a restricted use pesticide within 100 feet of a school during instructional hours beginning one year after effective date. Prohibits the use of pesticides containing chlorpyrifos as an active ingredient beginning 1/1/2019; provided that the DOA shall grant any person, upon request, a temporary permit allowing the use of pesticides containing chlorpyrifos through 12/31/2021. Provides for the deposit into the pesticide use revolving fund of all penalties and fines collected under the Hawaii Pesticides Law. Revises the ceiling and use of the pesticide use revolving fund. Appropriates money into and out of the pesticide use revolving fund. Authorizes the establishment of two full-time equivalent positions. (SB3095 HD1)

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