

JAN 20 2017

A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

1 SECTION 1. The legislature finds that an increasing number
2 of large-scale, outdoor commercial agricultural operations are
3 using extremely high volumes of pesticides on their fields in
4 the State. Pesticides are useful for controlling pests and thus
5 increasing crop yields, but their application can have
6 detrimental effects on humans and the environment.

7 Pesticide sales, labeling, notification, and use are
8 regulated under federal and state laws. The United States
9 Environmental Protection Agency classifies pesticides as either
10 general use or restricted use. Under federal and state law,
11 general use pesticides may be applied by anyone in accordance
12 with pesticide label instructions. Pesticides are classified as
13 restricted use if they are determined by the federal government
14 to cause "unreasonable adverse effects on the environment" when
15 used "without additional regulatory restrictions" and may only
16 be applied by applicators certified by the State or persons
17 under their direct control. In addition to the federal



1 requirements, chapter 149A, Hawaii Revised Statutes, regulates
2 the licensing, sale, and use of pesticides within the State.

3 The legislature further finds that local governments have
4 particular concerns regarding the use of restricted use
5 pesticides by large-scale commercial agricultural operations and
6 have passed local laws to further regulate pesticide use and
7 notice within their respective counties. The counties enacted
8 these local laws because they are deemed necessary to protect
9 health, life, and property, especially in light of the growing
10 concerns regarding the specific effects pesticide use has on its
11 residents and environment. However, these local laws have been
12 legally challenged on the basis of federal and state law
13 preemption.

14 The purpose of this Act is to allow a county to enact and
15 adopt local laws, rules, and policies that regulate pesticides
16 use within its own jurisdiction under certain conditions.

17 SECTION 2. Chapter 149A, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§149A- County authority. (a) Nothing in this chapter
21 shall be construed to preempt or prohibit the authority of a



1 county or any other political subdivision within the State
2 created under article VIII, section 1, of the Hawaii State
3 Constitution, to regulate pesticide disclosure, notification,
4 and use, in a manner that is equivalent to or more stringent
5 than the requirements under this chapter.

6 (b) The governing body of each county or any other
7 political subdivision within the State created under article
8 VIII, section 1, of the Hawaii State Constitution, may enact,
9 adopt, amend, and enforce the pesticide requirements under this
10 chapter as these requirements apply within their respective
11 jurisdiction, in accordance with section 46-1.5(13).

12 (c) Nothing in this section shall authorize or empower a
13 county of political subdivision within the State created under
14 article VIII, section 1, of the Hawaii State Constitution, to
15 enact, adopt, or enforce a local law, rule, or policy that is
16 less stringent than any laws of statewide applicability, any
17 requirements established by the United States Environmental
18 Protection Agency, or any other federal laws or regulations in
19 existence at the time when the local law, rule, or policy is
20 enacted or adopted."



1 SECTION 3. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. New statutory material is underscored.

11 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

Paul E. Bell
Richard J. ...
John M. ...



S.B. NO. 809

Report Title:

Counties; Pesticide Use; Preemption

Description:

Allows a county to enact and adopt local laws, rules, and policies that regulate pesticides use within its own jurisdiction under certain conditions.

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