

ACT 71

H.B. NO. 1641

A Bill for an Act Relating to Pesticides.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 149A-2, Hawaii Revised Statutes, is amended by adding a new definition to read as follows:

“‘Pest control operator’ means a commercial pesticide applicator, who is required to possess a valid license for pest control under chapter 460J.”

SECTION 2. Section 149A-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It shall be unlawful to:

- (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless it is approved by the department to correct an improper label or labeling under section 24(c), FIFRA[-];
- (2) Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter[-];
- (3) Use for a person’s own advantage or [tø] reveal any information relative to formulas of products acquired in the administration of this chapter, to persons other than to the chairperson or proper officials or employees of the State or the federal government; to the courts of this

State or the federal government in response to a subpoena; to physicians; or, in emergencies, to pharmacists and other qualified persons for use in the preparation of antidotes[-];

- (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained a license from the department[-];
- (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted use pesticides to any person other than a certified pesticide applicator[-];
- (6) For any pesticide dealer, wholesaler, or retailer to make any verbal or written claim or representation relating to any pesticide product that is inconsistent with the specific pesticide product label[-]; or
- (7) For any pesticide dealer to expose to, offer for sale to, or solicit or receive orders for the sale of restricted use pesticides to any pest control operator or to an employee of the pest control operator acting on the pest control operator's behalf without satisfactory proof that the pest control operator holds, or has held within the previous one hundred twenty days, a pest control license and, when applicable, without satisfactory proof that the employee is employed by the pest control operator."

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

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

- (1) Use any pesticide in a manner inconsistent with its label, except that it shall not be unlawful to:
 - (A) Apply a pesticide at any dosage, concentration, or frequency less than that specified on the label or labeling; provided that the efficacy of the pesticide is maintained and further provided that, when a pesticide is applied by a commercial applicator, the deviation from the label recommendations must be with the consent of the purchaser of the pesticide application services;
 - (B) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling; provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;
 - (C) Employ any method of application not prohibited by the labeling;
 - (D) Mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the label or labeling; or
 - (E) Use in a manner determined by rule not to be an unlawful act;
- (2) Use, store, transport, or discard any pesticide or pesticide container in any manner which would have unreasonable adverse effects on the environment;
- (3) Use or apply restricted use pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to rules adopted under section 149A-33(1); provided that it shall be prohibited to use or apply a restricted use pesticide for structural pest control uses for a fee or trading of services, unless the user or applicator is a pest control operator or is employed by a pest control operator licensed under chapter 460J;

- (4) Use or apply pesticides in any manner that has been suspended, canceled, or restricted pursuant to section 149A-32.5;
- (5) Falsify any record or report required to be made or maintained by rules adopted pursuant to this chapter; or
- (6) Fill with water, through a hose, pipe, or other similar transmission system, any tank, implement, apparatus, or equipment used to disperse pesticides, unless the tank, implement, apparatus, equipment, hose, pipe, or other similar transmission system is equipped with an air gap or a reduced-pressure principle backflow device meeting the requirements under section 340E-2 and the rules adopted thereunder.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 16, 2007.)