

JAN 23 2015

A BILL FOR AN ACT

RELATING TO THE HEALTH IMPACT OF PESTICIDES.

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

1 SECTION 1. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . PESTICIDE DRIFT PROTECTIONS**

5 **§321-A Definitions.** As used in this part, unless the
6 context clearly requires otherwise:

7 "Department" means the department of health.

8 "Experimental use pesticide" means a pesticide whose use is
9 authorized by an experimental use permit by either the
10 Environmental Protection Agency or the department.

11 "Health" means physical and mental health.

12 "Outdoor application" means an application of a pesticide
13 made outside of a building or enclosed structure. The term
14 excludes indoor applications of pesticides and structural or
15 termite application of pesticides, regardless of whether such
16 applications are applied inside or outside of a building or
17 enclosed structure.



1 "Sensitive area" includes:

2 (1) Any school, hospital licensed pursuant to section
3 321-14.5, adult residential care home, assisted living
4 facility, child care facility, family child care home,
5 group child care center, group child care home,
6 hospice home, extended care adult residential care
7 home, expanded adult residential care home, health
8 care facility, primary care clinic, and place of
9 worship; and

10 (2) Any shoreline, watershed, and body of perennial
11 waters.

12 **§321-B Disclosure and notification of agricultural**

13 **pesticide use.** (a) Beginning July 1, 2016, any entity or
14 person that annually uses or purchases in excess of pounds
15 or gallons of restricted use pesticides during a prior
16 calendar year shall disclose the use of all pesticides,
17 including restricted use, general use, or experimental use, in
18 compliance with the following disclosure and notification
19 requirements:

20 (1) Provide public posting of warning signs in the area in
21 which pesticides are to be applied a minimum of



1 twenty-four hours prior to the outdoor application of
2 any pesticide, including restricted use, general use,
3 or experimental use. The warning signs shall remain
4 posted during the outdoor application of any pesticide
5 and until expiration of the applicable restricted-
6 entry interval established by the Environmental
7 Protection Agency for the particular pesticide. The
8 posting of warning signs during and after the outdoor
9 application of any pesticide shall conform to the
10 worker protection standard established by the
11 Environmental Protection Agency. The pesticide
12 warning signs shall contain but not be limited to the
13 following information:

- 14 (A) The trade name of the pesticide to be applied;
15 (B) The name of the active ingredient or ingredients
16 of the pesticide to be applied;
17 (C) The potential hazards to humans and domestic
18 animals as listed in the precautionary statements
19 of the pesticide's label; and
20 (D) Emergency telephone numbers to call in case of
21 poisoning from the pesticide.



- 1 (2) Provide pre-application written notification to any
2 entity or person within feet of the property
3 line where the pesticide is anticipated to be applied
4 outdoors a minimum of twenty-four hours prior to the
5 outdoor application of any pesticide, including
6 restricted use, general use, or experimental use. The
7 pre-application written notifications shall contain
8 but not be limited to the following information:
- 9 (A) The trade name of the pesticide to be applied;
10 (B) The name of the active ingredient or ingredients
11 of the pesticide to be applied;
12 (C) The potential hazards to humans and domestic
13 animals as listed in the precautionary statements
14 of the pesticide's label; and
15 (D) Emergency telephone numbers to call in case of
16 poisoning from the pesticide.
- 17 (3) No later than sixty days following the end of each
18 calendar year, any entity or person subject to this
19 section shall provide annual public reports of all
20 pesticides, including restricted use, general use, or
21 experimental use, used in outdoor applications during



1 the prior calendar year to the department of health
2 and department of agriculture. The annual public
3 reports shall be posted online on each of the
4 departments' websites. The annual public reports
5 shall contain but not be limited to the following
6 information:

7 (A) A listing of all pesticides used in outdoor
8 applications by federal and state registrations
9 or permit numbers, commercial product names, and
10 active ingredients;

11 (B) The total quantities used for each pesticide; and

12 (C) A general description of the geographic location,
13 including at minimum the tax map key and ahupuaa
14 where the pesticides were used.

15 (b) Any entity or person subject to this section shall not
16 conduct any outdoor application of pesticides when the wind
17 speed is more than miles per hour. If a more restrictive
18 standard is set forth in information contained on the label of
19 the pesticide, or by other regulations, including county or
20 local regulations, the more restrictive standard shall apply.



1 **§321-C Pesticide buffer zones for sensitive areas.** (a)

2 Beginning July 1, 2016, any entity or person that uses or
3 purchases in excess of pounds or gallons of
4 restricted use pesticides annually shall restrict the outdoor
5 application of all pesticides, including restricted use, general
6 use, or experimental use, within feet of any sensitive
7 area.

8 (b) If a more restrictive standard is set forth in the
9 information contained on the label of the pesticide, or by other
10 regulations, including county or local regulations, the more
11 restrictive standard shall apply.

12 (c) Any entity or person that is subject to section 321-B,
13 shall ensure that prior to any outdoor application of
14 pesticides, the application site is positively identified using
15 a unique and verifiable method, including:

- 16 (1) An onboard, geo-referenced electronic mapping and
17 navigation system, such as Global Positioning System;
- 18 (2) Effective site markings visible to the pesticide
19 applicator; or
- 20 (3) Other methods approved by the department.



1 (d) Any entity or person that is subject to section 321-B,
2 prior to any application of pesticides, shall provide the
3 certified pesticide applicator, commercial pesticide applicator,
4 or pest control operator with a site plan that includes a site
5 map that:

6 (1) Delineates the boundaries of the application area and
7 the property lines;

8 (2) Depicts the type and location of sensitive areas
9 within feet of the application areas; and

10 (3) Depicts the pesticide buffer zones for sensitive areas
11 where no pesticide application is allowed.

12 **§321-D Exemptions.** Notwithstanding the provisions of this
13 part, any entity or person subject to section 321-B may obtain
14 from the department a single use exemption from the prohibition
15 on outdoor applications of pesticides in pesticide buffer zones
16 around sensitive areas. The department shall issue a single use
17 exemption if it determines that:

18 (1) The pest situation poses an immediate threat to human
19 health and the environment; and

20 (2) That there is no viable alternative to the use of the
21 proposed pesticide."



1 SECTION 2. The department of health shall adopt rules,
2 pursuant to chapter 91, Hawaii Revised Statutes, necessary for
3 the purposes of this Act.

4 SECTION 3. Nothing in this Act shall be construed to
5 prohibit or preempt the authority of an unit of local government
6 in the State of Hawaii, including counties and any other
7 political subdivisions created under article VIII, section 1, of
8 the Hawaii State Constitution, to regulate pesticide disclosure,
9 notification, and use in a manner that is equivalent to or more
10 restrictive than the provisions contained in this Act.

11 SECTION 4. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 5. In codifying the new sections added by section
18 1 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21



S.B. NO. 797

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

2

INTRODUCED BY: *Jahid*



S.B. NO. 797

Report Title:

Pesticide; Health; Disclosure

Description:

Establishes notice, reporting, and use requirements for any entity or person that uses pesticides under certain circumstances.

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