
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

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

1 SECTION 1. The legislature finds that a significant amount
2 of pesticide continues to be released into Hawaii's fragile
3 environment. This poses significant health risks to residents,
4 particularly developing children. Scientists have definitively
5 linked pesticides such as chlorpyrifos to developmental delays
6 in children, and other toxic exposure to pesticides during
7 fetal, neonatal, and infant life will disrupt critical
8 development processes. Life-long pesticide exposure for those
9 living in exposed areas has been linked to long-term health
10 effects, including cancer and other serious diseases, decreased
11 cognitive function, and behavioral problems.

12 The United States Environmental Protection Agency
13 classifies pesticides as restricted use pesticides if they are
14 determined to cause "unreasonable adverse effects on the
15 environment" when used "without additional regulatory
16 restrictions." The legislature also finds that information



1 pertaining to the use of pesticides, including intensive use,
2 within the State is not readily available to the public.

3 In 2013, the department of agriculture began the Kauai
4 agricultural good neighbor program to collect and publish
5 information regarding outdoor usage of restricted use pesticides
6 by commercial agricultural operations in the county of Kauai.

7 In 2016, the voluntary program was extended statewide.
8 However, the information collected is completely voluntary, is
9 unverified, and is only published on the department's website
10 months after the reported pesticide applications. As a result,
11 the public is unable to evaluate the full extent of any impacts
12 accruing to Hawaii's environment or its residents and to decide
13 whether the risks associated with the agricultural use of such
14 pesticides across the State is acceptable.

15 The legislature further finds that the State currently does
16 not have an adequate regulatory structure in place to monitor
17 the human health impacts of pesticide drift near sensitive
18 populations. Pesticides may volatilize, or change from a solid
19 or liquid state into a vapor state, into the lower atmosphere
20 for days, weeks, or months after application. Accordingly,
21 drift from pesticides may have lingering effects on the



1 environment long after the initial exposure. The direct,
2 indirect, and cumulative impacts on the environment and public
3 health related to long-term intensive use of pesticides has yet
4 to be properly or independently evaluated.

5 The study, "Pesticide Use by Large Agribusinesses on
6 Kauai," published by the independent Joint Fact Finding Study
7 Group and issued in May 2016, confirms that the State lacks
8 sufficient data on pesticide use and human and environmental
9 exposure. The Joint Fact Finding Study Group recommended that
10 the good neighbor program be made mandatory and implemented
11 statewide.

12 The purpose of this Act is to protect the State's
13 environment and residents from the unintended impacts of
14 pesticide use by implementing the recommendation of the Joint
15 Fact Finding Study Group's report that the good neighbor program
16 be revised and expanded to all persons and entities by:

- 17 (1) Making the reporting guidelines of the Kauai
18 agricultural good neighbor program mandatory for
19 restricted pesticide use across the State; and
20 (2) Establishing disclosure and public notification
21 requirements for outdoor applications of pesticides.



1 SECTION 2. 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 MANDATORY DISCLOSURE

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 is engaged in commercial agricultural
10 production.

11 "Commercial agricultural production" means:

- 12 (1) Commercial production of any seed, crop, plant,
13 timber, livestock, poultry, fish, bees, or apiary
14 products; or
15 (2) Testing or experimental production of any seed, crop,
16 plant, timber, livestock, poultry, fish, bees, or
17 apiary products.

18 "Commercial agricultural production area" means real
19 properties and areas owned, leased, or otherwise operated or
20 controlled and used by a commercial agricultural entity for
21 commercial agricultural production.



1 "Experimental use pesticide" means a pesticide whose use is
2 authorized by an experimental use permit by either the
3 Environmental Protection Agency or the department.

4 "Outdoor application" means an application of a pesticide
5 made outside of a building or enclosed structure. The term
6 excludes indoor applications of pesticides.

7 "Person" means an individual, corporation, organization,
8 governmental entity, or other legal entity.

9 **§149A-B Mandatory disclosure and notification of outdoor**
10 **pesticide use on affected grounds.** Effective one year following
11 the effective date of Act , Session Laws of Hawaii 2018, any
12 person or commercial agriculture entity that uses or purchases
13 in excess of ten pounds or ten gallons of restricted use
14 pesticides during the prior calendar year shall disclose the use
15 of all pesticides, including restricted use, general use, and
16 experimental use pesticides, as follows:

- 17 (1) Public posting of pesticide outdoor application. At a
18 minimum of twenty-four hours prior to the outdoor
19 application of any pesticide on affected grounds, each
20 entity subject to this section shall post public
21 warning signs in the area in which pesticides are to



1 be applied, in the manner prescribed by section 149A-
2 C; and

3 (2) Recordkeeping and annual public disclosure. No later
4 than sixty days following the end of each calendar
5 year, each entity subject to this section shall
6 provide to the department annual public reports of all
7 pesticides used in outdoor applications during the
8 preceding calendar year. The annual reports shall
9 comply with the requirements of section 149A-D.

10 **§149A-C Public warning signs.** (a) Any public warning
11 sign required to be posted under section 149A-B shall remain
12 posted during the outdoor application of any pesticide and until
13 expiration of the applicable restricted-entry interval
14 established by the Environmental Protection Agency for the
15 particular pesticide. The posting of a warning sign for the
16 outdoor application of any pesticide shall conform to the worker
17 protection standard established by the Environmental Protection
18 Agency.

19 (b) The department shall adopt rules pursuant to chapter
20 91 requiring that all warning signs posted pursuant to section
21 149A-B include the following information:



- 1 (1) The trade name of the pesticides to be applied;
- 2 (2) The names of the active ingredients of the pesticides
- 3 to be applied;
- 4 (3) The potential hazards to humans and domestic animals,
- 5 as listed in the precautionary statements of the
- 6 pesticide's label;
- 7 (4) Emergency telephone numbers to call in case of
- 8 poisoning from the pesticides; and
- 9 (5) Any other related information the department deems
- 10 appropriate.

11 **§149A-D Public reports; contents.** The department shall
12 adopt rules, pursuant to chapter 91, requiring that annual
13 public reports required under section 149A-B include the
14 following information:

- 15 (1) A listing of all pesticides used in outdoor
- 16 applications by federal and state registrations or
- 17 permit numbers, commercial product names, and active
- 18 ingredients;
- 19 (2) The total quantities used for each pesticide; and



1 (3) A general description of the geographic location,
2 including at minimum the tax map key number and
3 ahupuaa, where the pesticides were used.

4 **§149A-E Rules.** The department shall adopt rules pursuant
5 to chapter 91 to implement this part; provided that the
6 department shall not establish exemptions not expressly
7 authorized in this part."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

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 2 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.



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

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JAN 24 2018



H.B. NO. 2721

Report Title:

Reporting of Pesticide Use; Large-scale Agricultural Operations

Description:

Establishes disclosure and public notification requirements for outdoor application of restricted use pesticides in various areas.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

