A BILL FOR AN ACT

RELATING TO PESTICIDES.

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

SECTION 1. The legislature finds that many people unknowingly misuse or misunderstand the proper use of pesticides. The legislature further finds that this misuse or misunderstanding may be potentially hazardous and must be addressed by ensuring that any user of any pesticide is properly educated.

Accordingly, the purpose of this Act is to:

(1) Prohibit the use of any pesticide unless the user is certified by the department of agriculture; and

(2) Require the department of agriculture to include an educational component in the pesticide use certification process.

SECTION 2. Section 149A-2, Hawaii Revised Statutes, is amended by amending the definition of "certified pesticide applicator" to read as follows:

"Certified pesticide applicator" means any individual who is certified under section 149A-33(1) as authorized to use or
supervise the use of any pesticide [which is classified for restricted use]."

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; provided further that when a pesticide is applied by a commercial applicator, the deviation from the label recommendations shall 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 the 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 that 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;

(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;
or

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

(A) The department shall grant to any person, upon
request, a temporary permit authorizing the
person, until December 31, 2022, to use or apply
a pesticide containing chlorpyrifos as an active ingredient; and

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

SECTION 4. Section 149A-33, Hawaii Revised Statutes, is amended to read as follows:

"§149A-33 Rules. The department shall [have the authority to] carry out and effectuate the purpose of this chapter by adopting rules, including but not limited to the following:

(1) To establish fees, procedures, conditions, and standards to certify persons for the use of [restricted-use] pesticides [under section 4 of FIFRA]; provided that the certification of persons to use pesticides shall include an educational component as established or approved by the department;

(2) To establish limitations and conditions for the application of pesticides by aircraft, power rigs, mist blowers, and other equipment;

(3) To establish, as necessary, specific standards and guidelines [which] that specify those conditions
[which] that constitute unreasonable adverse effects on the environment;

(4) To establish, as necessary, record keeping requirements for pesticide use by applicators; and

(5) To establish, as necessary, procedures for the issuance of guidelines to specify those conditions that constitute use of a pesticide in a manner inconsistent with its label."

SECTION 5. Section 149A-34, Hawaii Revised Statutes, is amended to read as follows:

"§149A-34 Denial, suspension, or revocation of certificate. The department may deny issuance of a certificate for reasonable cause. Any certificate issued pursuant to rules adopted under section 149A-33(1) may be suspended or revoked by the department, after hearing, for violation of any condition of the certificate or of any law or rule pertaining to the use of any [restricted use] pesticide. Any order made by the department for the suspension or revocation of a certificate shall be in writing and shall set forth the reasons for the suspension or revocation. The action of the department in
suspending or revoking a certificate may be reviewed in the
manner provided by chapter 91."

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

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

SECTION 8. This Act shall take effect on July 1, 2019.

INTRODUCED BY: Lyn de Costa
JAN 24 2019
Report Title:
DOA; Pesticide Use

Description:
Prohibits the use of any pesticide use unless the user is certified by the Department of Agriculture. Requires DOA to include an educational component in the pesticide use certification process.

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