

2023 -- H 6160

LC002444

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

Introduced By: Representatives Noret, McNamara, Bennett, Vella-Wilkinson, O'Brien,  
Baginski, Corvese, Fenton-Fung, Costantino, and Fellela

Date Introduced: March 17, 2023

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-25-4 of the General Laws in Chapter 23-25 entitled "Pesticide  
2 Control" is hereby amended to read as follows:

3 **23-25-4. Definitions. [Effective until January 1, 2024.]**

4 As used in this chapter:

5 (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control,  
6 or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

7 (2) "Adulterated" applies to any pesticide if its strength or purity falls below the professed  
8 standards of quality as expressed on its labeling under which it is sold, or if any substance has been  
9 substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has  
10 been wholly or in part abstracted.

11 (3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal  
12 product, produced by a person (including farmers, ranchers, vineyardists, plant propagators,  
13 Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable  
14 persons) primarily for sale, consumption, propagation, or other use by humans or animals.

15 (4) "Animal" means all vertebrate and invertebrate species, including, but not limited to,  
16 man and other mammals, birds, fish, and shellfish.

17 (5) "Beneficial insects" means those insects which, during their life cycle, are effective  
18 pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

19 (6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

1 (7) "Defoliant" means any substance or mixture of substances intended for causing the  
2 leaves or foliage to drop from a plant with or without causing abscission.

3 (8) "Desiccant" means any substance or mixture of substances intended for artificially  
4 accelerating the drying of plant tissue.

5 (9) "Device" means any instrument or contrivance (other than a firearm) which is intended  
6 for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life  
7 (other than humans and other than bacteria, virus, or other micro-organism on or in living humans  
8 or other living animals) but not including equipment used for the application of pesticides when  
9 sold separately from it.

10 (10) "Director" means the director of environmental management.

11 (11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for  
12 shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

13 (12) "Environment" includes water, air, land, and all plants and humans and other living  
14 animals in it, and the interrelationships which exist among these.

15 (13) "EPA" means the United States Environmental Protection Agency.

16 (14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §  
17 136 et seq., and other legislation supplementary to it and amendatory of it.

18 (15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-  
19 bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews,  
20 molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except  
21 those in or on processed food, beverages, or pharmaceuticals.

22 (16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide  
23 under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-  
24 25-9(a)(2).

25 (17) "Imminent hazard" means a situation which exists when the continued use of a  
26 pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely  
27 result in unreasonable adverse effects on the environment or will involve unreasonable hazard to  
28 the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. §  
29 1531 et seq.

30 (18) "Inert ingredient" means an ingredient which is not an active ingredient.

31 (19) "Ingredient statement" means:

32 (i) Statement of the name and percentage of each active ingredient together with the total  
33 percentage of the inert ingredients in the pesticide; and

34 (ii) When the pesticide contains arsenic in any form, the ingredient statement shall also

1 include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

2 (20) "Insect" means any of the numerous small invertebrate animals generally having the  
3 body more or less obviously segmented, for the most part belonging to the class insecta, comprising  
4 six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their  
5 immature stages, and to other allied classes of anthropods whose members are wingless and usually  
6 have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

7 (21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a  
8 systems approach to reduce pest damage to tolerable levels through a variety of techniques,  
9 including natural predators and parasites, genetically resistant hosts, environmental modifications  
10 and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical  
11 defenses first and chemical pesticides second.

12 (22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide  
13 or device or any of its containers or wrappers.

14 (23) "Labeling" means the label and all other written, printed, or graphic matter:

15 (i) Accompanying the pesticide or device at any time; or

16 (ii) To which reference is made on the label or in literature accompanying the pesticide or  
17 device, except to current official publications of EPA, the United States Departments of Agriculture  
18 and Interior, and the department of health and human services; state experiment stations; state  
19 agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct  
20 research in the field of pesticides.

21 (24) "Land" means all land and water areas, including airspace, all plants, animals,  
22 structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or  
23 mobile, including any used for transportation.

24 (25) "Nematode" means invertebrate animals of the phylum Nematelminthes and class  
25 Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered  
26 with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

27 (26) "Plant regulator" means any substance or mixture of substances intended, through  
28 physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for  
29 altering the behavior of plants or the produce of these but shall not include substances to the extent  
30 that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and  
31 soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient  
32 mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products,  
33 intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest  
34 destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

1 (27) "Permit" means a written certificate, issued by the director, authorizing the purchase,  
2 possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34) and (35)  
3 of this section.

4 (28) "Person" means any individual, partnership, association, fiduciary, corporation,  
5 governmental entity, or any organized group of persons whether incorporated or not.

6 (29) "Pest" means:

7 (i) Any insect, rodent, nematode, fungus, or weed; and

8 (ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other  
9 micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other  
10 living animals) which the director declares to be a pest under § 23-25-9(a)(1).

11 (30) "Pesticide" means:

12 (i) Any substance or mixture of substances intended for preventing, destroying, repelling,  
13 or mitigating any pest; and

14 (ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant,  
15 or desiccant.

16 (31) "Pesticide dealer" means any person who distributes within the state any pesticide  
17 product classified for restricted use by EPA or limited use by the director.

18 (32)(i) "Private applicator" means any person who uses or supervises the use of any  
19 pesticide for purposes of producing any agricultural commodity on land owned or rented by him or  
20 her or his or her employer or (if applied without compensation other than trading of personal  
21 services between producers of agricultural commodities) on land of another person.

22 (ii) "Certified private applicator" means any private applicator who is certified under § 23-  
23 25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide  
24 classified for restricted use by EPA or limited use by the director.

25 (iii) "Commercial applicator" means any person (whether or not that person is a private  
26 applicator with respect to some uses), including employees of any federal, state, county or  
27 municipal agency, department, office, division, section, bureau, board, or commission, who applies  
28 or supervises the application of any pesticide for any purpose or on any property other than as  
29 provided by the definition of "private applicator".

30 (iv) "Certified commercial applicator" means any commercial applicator who is certified  
31 under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a  
32 pesticide classified for restricted use by EPA or limited use by the director.

33 (v) "Licensed commercial applicator" means any commercial applicator who is licensed  
34 under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for

1 restricted use by EPA or limited use by the director on land not owned or rented by him or her.

2 (33) “Protect health and the environment” means protection against any unreasonable  
3 adverse effects on the environment.

4 (34) “Registrant” means a person who has registered any pesticide pursuant to the  
5 provisions of this chapter.

6 (35) “Restricted use pesticide” means a pesticide or pesticide use that is classified for  
7 restricted use by the administrator of EPA, or under § 23-25-6(h).

8 (36) “State limited use pesticide” means any pesticide or pesticide use which, when used  
9 as directed or in accordance with a widespread and commonly recognized practice, the director  
10 determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable  
11 adverse effects on the environment including humans, land, beneficial insects, animals, crops, and  
12 wildlife, other than pests.

13 (37) “Under the direct supervision” ~~means that on-site supervision of any pesticide~~  
14 ~~application by an appropriately certified or licensed applicator who is responsible for the~~  
15 ~~application and is capable of dealing with emergency situations which might occur~~ means, unless  
16 otherwise prescribed by labeling, any pesticide application by a competent person acting under the  
17 instructions and control of an appropriately certified or licensed applicator who is available if and  
18 when needed, and who is responsible for the pesticide applications made by that person, even  
19 though such certified applicator is not physically present at the time and place the pesticide is  
20 applied.

21 (38) “Unreasonable adverse effects on the environment” means any unreasonable risk to  
22 humans or the environment, taking into account the economic, social, and environmental costs and  
23 benefits of the use of any pesticide.

24 (39) “Weed” means any plant which grows where not wanted.

25 (40) “Wildlife” means all living things that are neither human nor, as defined in this  
26 chapter, pests, including but not limited to mammals, birds, and aquatic life.

27 **23-25-4. Definitions. [Effective January 1, 2024.]**

28 As used in this chapter:

29 (1) “Active ingredient” means any ingredient that will prevent, destroy, repel, control, or  
30 mitigate pests, or that will act as a plant regulator, defoliant, or desiccant.

31 (2) “Adulterated” applies to any pesticide if its strength or purity falls below the professed  
32 standards of quality as expressed on its labeling under which it is sold, or if any substance has been  
33 substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has  
34 been wholly or in part abstracted.

1 (3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal  
2 product, produced by a person (including farmers, ranchers, vineyardists, plant propagators,  
3 Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable  
4 persons) primarily for sale, consumption, propagation, or other use by humans or animals.

5 (4) "Animal" means all vertebrate and invertebrate species, including, but not limited to,  
6 humans and other mammals, birds, fish, and shellfish.

7 (5) "Beneficial insects" means those insects that, during their life cycle, are effective  
8 pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

9 (6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

10 (7) "Defoliant" means any substance or mixture of substances intended for causing the  
11 leaves or foliage to drop from a plant with or without causing abscission.

12 (8) "Desiccant" means any substance or mixture of substances intended for artificially  
13 accelerating the drying of plant tissue.

14 (9) "Device" means any instrument or contrivance (other than a firearm) that is intended  
15 for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life  
16 (other than humans and other than bacteria, virus, or other micro-organism on or in living humans  
17 or other living animals) but not including equipment used for the application of pesticides when  
18 sold separately from it.

19 (10) "Director" means the director of environmental management.

20 (11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for  
21 shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

22 (12) "Environment" includes water, air, land, and all plants and humans and other living  
23 animals in it, and the interrelationships that exist among these.

24 (13) "EPA" means the United States Environmental Protection Agency.

25 (14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §  
26 136 et seq., and other legislation supplementary to it and amendatory of it.

27 (15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-  
28 bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews,  
29 molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except  
30 those in or on processed food, beverages, or pharmaceuticals.

31 (16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide  
32 under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-  
33 25-9(a)(2).

34 (17) "Imminent hazard" means a situation that exists when the continued use of a pesticide

1 during the time required for cancellation proceedings pursuant to § 23-25-8 would likely result in  
2 unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival  
3 of a species declared endangered by the secretary of the interior under 16 U.S.C. § 1531 et seq.

4 (18) “Inert ingredient” means an ingredient that is not an active ingredient.

5 (19) “Ingredient statement” means:

6 (i) A statement of the name and percentage of each active ingredient together with the total  
7 percentage of the inert ingredients in the pesticide; and

8 (ii) When the pesticide contains arsenic in any form, the ingredient statement shall also  
9 include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

10 (20) “Insect” means any of the numerous small invertebrate animals generally having the  
11 body more or less obviously segmented, for the most part belonging to the class insecta, comprising  
12 six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their  
13 immature stages, and to other allied classes of arthropods whose members are wingless and usually  
14 have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

15 (21) “Integrated Pest Management (IPM)” refers to a method of pest control that uses a  
16 systems approach to reduce pest damage to tolerable levels through a variety of techniques,  
17 including natural predators and parasites, genetically resistant hosts, environmental modifications  
18 and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical  
19 defenses first and chemical pesticides second.

20 (22) “Label” means the written, printed, or graphic matter on, or attached to, the pesticide  
21 or device or any of its containers or wrappers.

22 (23) “Labeling” means the label and all other written, printed, or graphic matter:

23 (i) Accompanying the pesticide or device at any time; or

24 (ii) To which reference is made on the label or in literature accompanying the pesticide or  
25 device, except to current official publications of EPA, the United States Departments of Agriculture  
26 and Interior, and the department of health and human services; state experiment stations; state  
27 agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct  
28 research in the field of pesticides.

29 (24) “Land” means all land and water areas, including airspace, all plants, animals,  
30 structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or  
31 mobile, including any used for transportation.

32 (25) “Nematode” means invertebrate animals of the phylum Nematelminthes and class  
33 Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered  
34 with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

1 (26) "Neonicotinoids" means any of a class of systemic water soluble insecticides related  
2 to nicotine that affect the central nervous system of insects by selectively binding to the  
3 postsynaptic nicotinic receptors of insects thereby causing paralysis and death. Neonicotinoids  
4 include, but are not limited to:

- 5 (i) Imidacloprid;
- 6 (ii) Acetamiprid;
- 7 (iii) Clothianidin;
- 8 (iv) Nitenpyram;
- 9 (v) Nithiazine;
- 10 (vi) Thiacloprid;
- 11 (vii) Thiamethoxam; and
- 12 (viii) Dinotefuran.

13 (27) "Permit" means a written certificate, issued by the director, authorizing the purchase,  
14 possession, and/or use of certain pesticides or pesticide uses defined in subsections (36) and (37)  
15 of this section.

16 (28) "Person" means any individual, partnership, association, fiduciary, corporation,  
17 governmental entity, or any organized group of persons whether incorporated or not.

18 (29) "Pest" means:

- 19 (i) Any insect, rodent, nematode, fungus, or weed; and
- 20 (ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other  
21 micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other  
22 living animals) which the director declares to be a pest under § 23-25-9(a)(1).

23 (30) "Pesticide" means:

- 24 (i) Any substance or mixture of substances intended for preventing, destroying, repelling,  
25 or mitigating any pest; and
- 26 (ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant,  
27 or desiccant.

28 (31) "Pesticide dealer" means any person who distributes within the state any pesticide  
29 product classified for restricted use by EPA or limited use by the director.

30 (32) "Plant regulator" means any substance or mixture of substances intended, through  
31 physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for  
32 altering the behavior of plants or the produce of these but shall not include substances to the extent  
33 that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and  
34 soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient

1 mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products,  
2 intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest  
3 destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

4 (33)(i) "Private applicator" means any person who uses or supervises the use of any  
5 pesticide for purposes of producing any agricultural commodity on land owned or rented by him or  
6 her or his or her employer or (if applied without compensation other than trading of personal  
7 services between producers of agricultural commodities) on land of another person.

8 (ii) "Certified private applicator" means any private applicator who is certified under § 23-  
9 25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide  
10 classified for restricted use by EPA or limited use by the director.

11 (iii) "Commercial applicator" means any person (whether or not that person is a private  
12 applicator with respect to some uses), including employees of any federal, state, county or  
13 municipal agency, department, office, division, section, bureau, board, or commission, who applies  
14 or supervises the application of any pesticide for any purpose or on any property other than as  
15 provided by the definition of "private applicator".

16 (iv) "Certified commercial applicator" means any commercial applicator who is certified  
17 under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a  
18 pesticide classified for restricted use by EPA or limited use by the director.

19 (v) "Licensed commercial applicator" means any commercial applicator who is licensed  
20 under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for  
21 restricted use by EPA or limited use by the director on land not owned or rented by him or her.

22 (34) "Protect health and the environment" means protection against any unreasonable  
23 adverse effects on the environment.

24 (35) "Registrant" means a person who has registered any pesticide pursuant to the  
25 provisions of this chapter.

26 (36) "Restricted use pesticide" means a pesticide or pesticide use that is classified for  
27 restricted use by the administrator of EPA, or under § 23-25-6(h).

28 (37) "State limited use pesticide" means any pesticide or pesticide use that, when used as  
29 directed or in accordance with a widespread and commonly recognized practice, the director  
30 determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable  
31 adverse effects on the environment including humans, land, beneficial insects, animals, crops, and  
32 wildlife, other than pests.

33 (38) "Under the direct supervision" ~~means on-site supervision of any pesticide application~~  
34 ~~by an appropriately certified or licensed applicator who is responsible for the application and is~~

1 ~~capable of dealing with emergency situations which might occur~~ means, unless otherwise  
2 prescribed by labeling, any pesticide application by a competent person acting under the  
3 instructions and control of an appropriately certified or licensed applicator who is available if and  
4 when needed, and who is responsible for the pesticide applications made by that person, even  
5 though such certified applicator is not physically present at the time and place the pesticide is  
6 applied.

7 (39) “Unreasonable adverse effects on the environment” means any unreasonable risk to  
8 humans or the environment, taking into account the economic, social, and environmental costs and  
9 benefits of the use of any pesticide.

10 (40) “Weed” means any plant that grows where not wanted.

11 (41) “Wildlife” means all living things that are neither human nor, as defined in this  
12 chapter, pests, including but not limited to mammals, birds, and aquatic life.

13 SECTION 2. This act shall take effect upon passage.

=====  
LC002444  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

\*\*\*

- 1           This act would amend the definition of "under the direct supervision" to include a
- 2 competent person acting under the control of a certified or licensed applicator who is available
- 3 when needed, even though not physically present when pesticide is applied.
- 4           This act would take effect upon passage.

=====  
LC002444  
=====