

Mississippi Pesticide Application Law of 1975

SEC. 69-23-101. Short title.

Sections [69-23-101](#) to [69-23-133](#) may be known as the "Mississippi Pesticide Application Law of 1975."

SOURCES: Laws, 1975, ch. 318, Sec. 1, eff from and after October 1, 1975.

SEC. 69-23-103. Administration.

Sections [69-23-101](#) to [69-23-133](#) shall be administered by the commissioner of the Mississippi Department of Agriculture and Commerce, or his agent, herein referred to as the "commissioner."

SOURCES: Laws, 1975, ch. 318, Sec. 2, eff from and after October 1, 1975.

SEC. 69-23-105. Declaration of purpose.

The purpose of Sections [69-23-101](#) through [69-23-133](#) is to provide a means for the state certification of applicators of restricted use pesticides required under the Federal Insecticide, Fungicide and Rodenticide Act, and to regulate in the public interest the use and application of such pesticides, except as such application is regulated under Sections [69-19-1](#) through [69-19-11](#), [69-21-1](#) through [69-21-27](#), and [69-21-101](#) through [69-21-125](#), and to designate the Mississippi Department of Agriculture and Commerce as the agency responsible for administering a plan for certification of applicators of restricted use pesticides and to cooperate with the United States Environmental Protection Agency as provided for in the Federal Insecticide, Fungicide and Rodenticide Act, and for other purposes.

SOURCES: Laws, 1975, ch. 318, Sec. 3; 1991, ch. 530, Sec. 17, eff from and after July 1, 1991.

SEC. 69-23-107. Definitions.

When used in the context of Sections [69-23-101](#) through [69-23-133](#), the following terms shall be ascribed the following meanings:

- (a) "Commissioner" shall mean the Commissioner of Agriculture and Commerce of the State of Mississippi.
- (b) "Certification" shall mean the recognition by a state that a person is competent and thus authorized to use or supervise the use of restricted use pesticides.
- (c) "Certified applicator" shall mean any person who is certified to use or supervise the use of any restricted use pesticide covered by this certification.
- (d) "Commercial applicator" shall mean a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by the definition of "private applicator."
- (e) "Division" shall mean the Bureau of Plant Industry within the Regulatory Office of the Mississippi Department of Agriculture and Commerce.
- (f) "Division of Plant Industry" shall mean the Bureau of Plant Industry within the Regulatory Office of the Mississippi Department of Agriculture and Commerce.
- (g) "EPA" shall mean the United States Environmental Protection Agency.

- (h) "FIFRA" shall mean the Federal Insecticide, Fungicide and Rodenticide Act, as amended.
- (i) "License" shall mean a license, certificate or permit.
- (j) "Person" shall mean any individual, partnership, association, corporation or organized group of persons, whether incorporated or not.
- (k) "Pest" shall mean:
- (i) Any insects, rodents, nematodes, fungi, weeds; and
 - (ii) Other forms of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria or other microorganism on or in living man or other living animals) which the commissioner declares to be a pest.
- (l) "Pesticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting any pests; and shall also include adjuvants intended to enhance the effectiveness of pesticides; and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.
- (m) "Private applicator" shall mean a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned, rented or controlled by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person, subject to regulations adopted under authority granted by Sections [69-23-101](#) through [69-23-133](#).
- (n) "Public applicator" shall mean any individual who applies restricted use pesticides as an employee of a state agency, municipal corporation, public utility, or other governmental agency. This term does not include employees who work under direct "on-the-job" supervision of a public applicator.
- (o) "Restricted use pesticide" shall mean any pesticide classified for restricted use by EPA or by the commissioner.
- (p) "State restricted pesticide use" shall mean any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the commissioner determines subsequent to a hearing, requires additional restrictions for that use to protect the environment including man, lands, beneficial insects, animals, crops and wildlife, other than pests.
- (q) "Under the direct supervision of a certified applicator" shall mean, unless otherwise prescribed by its labeling, a pesticide which is to be applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.
- (r) "Unreasonable adverse effects on the environment" shall mean any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.
- (s) Words and terms as defined in Sections [69-19-1](#) through [69-19-11](#), [69-21-1](#) through [69-21-27](#), [69-21-101](#) through [69-21-125](#), and [69-23-1](#) through [69-23-23](#), when used in Sections [69-23-101](#) through [69-23-133](#) shall have the same meaning ascribed therein.

SOURCES: Laws, 1975, ch. 318, Sec. 4; 1991, ch. 530, Sec. 18, eff from and after July 1, 1991.

SEC. 69-23-109. Commissioner to adopt regulations; reports; regulation by other agencies.

(1) The commissioner shall have authority to adopt regulations to carry out the provisions of Sections [69-23-1](#) through [69-23-133](#).

(2) In adopting regulations, the commissioner shall give consideration to pertinent research findings and recommendations of other agencies of this state or federal government. The commissioner shall report to the Legislature on or before February 1 of each year any regulation promulgated under this section which is more restrictive than applicable federal regulations.

(3) Regulations promulgated by the commissioner under the provisions of Sections [69-23-1](#) through [69-23-133](#) shall not be effective until approved by the advisory board created under the provisions of Section [69-25-3](#).

(4) In order to eliminate inequitable application or establishment of opposing regulations, the authority to regulate any matter pertaining to the registration, sale, handling, distribution, notification of use, application and use of pesticides shall vest solely in the Commissioner of Agriculture and Commerce, except where other state agencies, including the Agricultural Aviation Board, exercise such regulatory authority under state law.

SOURCES: Laws, 1975, ch. 318, Sec. 5, eff from and after October 1, 1975. Laws, 1992, ch. 539, Sec. 1, eff from and after July 1, 1992.

SEC. 69-23-111. Licenses and permits.

(1) After October 21, 1976, it shall be unlawful for any person to engage in the application or use of any pesticide which is restricted by EPA or the commissioner, except as provided for and defined in sections [69-19-1](#) through [69-19-11](#), [69-21-1](#) through [69-21-27](#), [69-21-101](#) through [69-21-125](#), and [69-23-1](#) through [69-23-23](#), without having been certified or licensed by the commissioner.

(2) The commissioner may classify licenses or permits to be issued under sections [69-23-101](#) to [69-23-133](#). Separate classifications and subclassifications may be specified by the commissioner in conformity with FIFRA. Each classification may be subject to separate requirements of testing procedures.

(3) Application for license shall be made on a form provided by the commissioner and shall contain information regarding the applicant's qualifications, proposed operations, and license classification or classifications as prescribed by regulations.

(4) The commissioner shall require each applicant for a certified applicator's license to demonstrate competency by a written or oral examination, or such other equivalent procedure as may be adopted by the commissioner by regulation, that he possesses adequate knowledge with respect to the proper use and application of pesticides in the particular categories or classification for which application for license is made. The commissioner may cooperate with other state, federal and private agencies in preparing, administering and evaluating examinations or other equivalent procedures, including training, for determining competency of certified applicators, and shall consider and be guided by certification requirements set forth by EPA.

(5) If the commissioner finds the applicant qualified in the classification for which he has applied, he shall issue a certified applicator's license limited to that classification. Expiration dates of licenses may be established by regulation, unless revoked or suspended prior thereto by the commissioner for cause as hereinafter provided.

SOURCES: Laws, 1975, ch. 318, Sec. 6, eff from and after October 1, 1975.

SEC. 69-23-113. Nonresident commercial applicators to designate secretary of state as agent for service of process.

Any nonresident commercial applicator applying for a license under sections [69-23-101](#) to [69-23-133](#) to operate in the state shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicant. Provided, however, that any such nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefor as provided by law for designating resident agents. The commissioner shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be duly certified by the secretary of state.

SOURCES: Laws, 1975, ch. 318, Sec. 7, eff from and after October 1, 1975.

SEC. 69-23-115. Denial, suspension, revocation, and modification of licenses and permits.

The commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, revoke or modify the provisions of any license or permit issued under sections [69-23-101](#) to [69-23-133](#) if he finds that the applicant or licensee has committed any of the following applicable to him, each of which is declared to be a violation of said sections:

- (a) Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
- (b) Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
- (c) Refused, or after notice neglected to comply with the provisions of sections [69-23-101](#) to [69-23-133](#), the regulations adopted hereunder, or any lawful order of the commissioner;
- (d) Refused or neglected to keep and maintain records required by sections [69-23-101](#) to [69-23-133](#) or to make reports when required;
- (e) Made false or fraudulent records, invoices or reports;
- (f) Used fraud or misrepresentation in making application for a license or renewal for a license;
- (g) Aided or abetted any person in evading the provisions of sections [69-23-101](#) to [69-23-133](#), allowed one's license to be used by an unlicensed person;
- (h) Impersonated any state or federal official;
- (i) Convicted of a violation under FIFRA; or
- (j) Convicted for using any restricted use pesticide in a manner which is determined to be inconsistent with its labeling.

Any person who is denied a permit or license or whose permit or license is suspended, revoked or modified by the commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the commissioner within thirty (30) days after receipt of notice from the commissioner of such denial, suspension, revocation or

modification. The commissioner shall set a time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five (5) days.

Any person aggrieved by the determination of the board may petition the chancery court of the county of residence of such person, or the chancery court of Hinds County, for a review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered but any record made or evidence heard before the board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

SOURCES: Laws, 1975, ch. 318, Sec. 8, eff from and after October 1, 1975.

SEC. 69-23-117. Records to be maintained by commercial applicators.

Commercial applicators shall maintain records with respect to the application of pesticides. Such relevant information as the commissioner may deem necessary and the length of time that these records shall be maintained may be specified by the commissioner, and upon request in writing he shall be furnished with a copy of such records by the licensee.

SOURCES: Laws, 1975, ch. 318, Sec. 9, eff from and after October 1, 1975.

SEC. 69-23-119. Exemptions.

(1) Any person duly licensed and certified under sections [69-19-1](#) through [69-19-11](#), [69-21-1](#) through [69-21-27](#), and [69-21-101](#) through [69-21-125](#), is exempted from the licensing provisions of sections [69-23-101](#) to [69-23-133](#).

(2) The commissioner may exempt such other persons as may be exempted by federal regulations.

(3) The commissioner may exempt public applicators from the requirements of sections [69-23-113](#) and [69-23-117](#).

SOURCES: Laws, 1975, ch. 318, Sec. 10, eff from and after October 1, 1975.

SEC. 69-23-121. Cooperative extension service to conduct courses of instruction and training.

The Mississippi Cooperative Extension Service shall conduct courses of instruction and training for the purpose of carrying out the provisions of sections [69-23-101](#) to [69-23-133](#).

SOURCES: Laws, 1975, ch. 318, Sec. 11, eff from and after October 1, 1975.

SEC. 69-23-123. Cooperative agreements.

The commissioner may cooperate with or enter into formal cooperative agreements with any public or private agency or educational institution of this state or any other state or federal agency for the purpose of carrying out the provisions of sections [69-23-101](#) to [69-23-133](#), to encourage training of certified applicators and securing uniformity of regulations.

SOURCES: Laws, 1975, ch. 318, Sec. 12, eff from and after October 1, 1975.

1997 Amendment:

Repealed

SOURCE: 1997 Laws, Chapter 449, Sec. 5, SB2637, Effective March 25, 1997.

SEC. 69-23-125. Enforcement; investigations.

The commissioner shall enforce the provisions of sections [69-23-101](#) to [69-23-123](#). The commissioner or his representative may enter upon public or private premises at reasonable times for the purpose of enforcing said sections, and may investigate complaints of injury or accidents resulting from use of restricted use pesticides.

SOURCES: Laws, 1975, ch. 318, Sec. 13, eff from and after October 1, 1975.

SEC. 69-23-127. Injunctive relief.

The commissioner may bring an injunction to enjoin the violation of sections [69-23-101](#) to [69-23-133](#) or any regulations made pursuant to said sections in the court of the county in which the violation occurs.

SOURCES: Laws, 1975, ch. 318, Sec. 14, eff from and after October 1, 1975.

SEC. 69-23-129. Penalties.

Any person violating the provisions of sections [69-23-101](#) to [69-23-133](#) or regulations adopted hereunder shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months in jail, or both.

SOURCES: Laws, 1975, ch. 318, Sec. 15, eff from and after October 1, 1975.

SEC. 69-23-131. When training, examination and certification of applicators may begin.

(1) Regulations may be promulgated by the commissioner after passage.

(2) Training, examination and certification of applicators may begin after passage in order for applicants to be certified by October 21, 1976.

(3) The requirement that applicators be certified in order to use or supervise the use of restricted use pesticides shall not be effective until October 21, 1976, or at a later date if permitted by EPA.

SOURCES: Laws, 1975, ch. 318, Sec. 16, eff from and after October 1, 1975.

SEC. 69-23-133. Advisory committee.

The commissioner shall appoint an advisory committee, and by regulation establish the composition of the committee to include representatives from the agriculture, agribusiness and related industries.

The purpose of the committee shall be to advise and assist the commissioner in developing regulations and plans for implementing the provisions of sections [69-23-101](#) to [69-23-133](#) and a pesticide regulatory program to meet the requirements of FIFRA.

SOURCES: Laws, 1975, ch. 318, Sec. 17, eff from and after October 1, 1975.

SEC. 69-23-135. [To provide penalties for violations of the Mississippi pesticide application law.]

(1)(a) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto at a minimum is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment at the discretion of the court having jurisdiction.

(b) Each violation and each day's violation shall constitute a separate offense.

(c) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto in such a way that causes harm or poses a threat to man, animals or the environment is guilty of a felony and, upon conviction, shall be punished by a fine of not more than Twenty-Five Thousand Dollars (\$25,000.00) or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years or by both such fine and imprisonment for each violation.

(2) Each violation of this chapter or the rules and regulations promulgated thereunder may subject the violator to civil action as provided for in Sections 69-25-51 through 69-25-65.

SOURCES: 1997 Laws, Chapter 449, Sec. 2, SB2637, Effective March 25, 1997.