

New Jersey Pesticide Control Laws

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13:1F-1 - Short title.

This act shall be known, and may be cited, as the "Pesticide Control Act of 1971."

L.1971, c. 176, s. 1, eff. June 1, 1971.

13:1F-2 - Legislative findings.

New Jersey, as the most urban State in the Nation, must be especially alert to any possibilities of disturbing natural ecological balance. It is essential to coordinate the activities of State agencies involved in the use of pesticides and, in addition, to formulate State policies regulating the use, transportation, storage, sale and disposal of pesticides and their containers. This requires consideration of many factors, including long term effects on the environment, as well as the safety and effectiveness of pesticides.

The Legislature finds and declares that pesticides have been of value in preventing the outbreak of diseases and insuring bountiful production of agricultural crops, however, indiscriminate use of pesticides in this State would constitute a serious threat to the

environment; and that this threat can be eliminated only by the adoption and enforcement of regulations governing the sale, use and application of all pesticides.

L.1971, c. 176, s. 2, eff. June 1, 1971

13:1F-3 - Definitions.

For purposes of this act, unless the context clearly requires a different meaning:

- a. "Person" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.
- b. "Pesticide" means and includes any substance or mixture of substances labeled, designed, intended for or capable of use in preventing, destroying, repelling, sterilizing or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds and other forms of plant or animal life or viruses, except viruses on or in living man or other animals. The term "pesticide" shall also include any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.
- c. "Commissioner" means the Commissioner of Environmental Protection in the State Department of Environmental Protection.
- d. "Department" means the State Department of Environmental Protection.
- e. "Council" means the Pesticide Control Council.

L.1971, c. 176, s. 3, eff. June 1, 1971.

13:1F-4 - Orders, rules and regulations; application of federal law and regulations.

The commissioner shall have the power to formulate and promulgate, amend and repeal orders, rules and regulations prohibiting, conditioning and controlling the sale, purchase, transportation, labeling, use and application, or any thereof, of pesticides which cause or may tend to cause adverse effects on man or the environment by any person within this State. State rules and regulations with respect to the labeling of any pesticide, the labeling of which is prescribed by Federal law and regulations, shall to the extent practicable conform to the Federal requirements.

L.1971, c. 176, s. 4, eff. June 1, 1971.

13:1F-5 - Adoption, amendment or repeal of rule or regulation; notice to interested party of determination.

No rule or regulation, and no amendment or repeal thereof, shall be adopted except after 30 days prior notice thereof by public advertisement of the date, time and place of such hearing at which opportunity to be heard by the department with respect thereto shall be given to the public, except as to emergent matters presenting imminent peril to

the public health, safety or welfare and provided, further, that no rule or regulation and no such amendment or repeal shall be or become effective, except as otherwise provided, until after notice and public hearing before the department as required under the Administrative Procedure Act (C. 52:14B-1 et seq.). Any interested party heard at such public hearing shall be given written notice of the determination of the department.

L.1971, c. 176, s. 5, eff. June 1, 1971.

13:1F-6 - Pesticide control council; creation; members; term of office; compensation.

a. There is hereby created in the department a Pesticide Control Council which shall consist of nine members, three of whom shall be the Secretary of Agriculture, the Commissioner of Health, the Dean of the College of Agriculture and Environmental Science of Rutgers, The State University, or their designees, who shall serve as ex officio, and six citizens of the State representing the general public to be appointed by the Governor, to serve at his pleasure, of whom one shall be a farmer, one a toxicologist and one an ecologist. The Governor shall designate a chairman and a vice chairman of the council from the public members who shall serve at the will of the Governor.

b. Of the six members first to be appointed, two shall be appointed for terms of 2 years, two for terms of 3 years and two for terms of 4 years. Thereafter all appointments shall be made for terms of 4 years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid.

c. Members of the council shall serve without compensation, but shall be entitled to reimbursement for expenses in attendance at meetings of the council and in performance of their duties as members thereof.

L.1971, c. 176, s. 6, eff. June 1, 1971.

13:1F-7 - Powers and duties.

The Pesticide Control Council shall be the advisory body in the Department of Environmental Protection in matters relating to the control, regulation and use of pesticides and is empowered to:

a. Request from the commissioner such information concerning pesticides as it may deem necessary;

b. Study and consider any matter relating to the improvement of pesticide control programs and advise the commissioner thereon;

- c. From time to time submit to the commissioner such recommendations and reports which it deems necessary for the proper conduct and improvement of pesticide control programs;
- d. Study the use, application and disposal of pesticides and advise the commissioner thereon;
- e. Study pesticide control programs and make reports and recommendations thereon to the commissioner as it may deem necessary;
- f. Study any regulations promulgated by the department or any other governmental entity in regard to the control of pesticides and make such recommendations thereon to the commissioner as it may deem appropriate;
- g. Study and investigate the state of the art and the technical capabilities and limitations of regulations concerning use and control of pesticides and their relation to the environment and ecology and report its findings and recommendations thereon to the commissioner;
- h. Study and investigate the need for programs for long range technical support of pesticide control programs and report its findings and recommendations thereon to the commissioner; and
- i. Hold periodic public hearings concerning the use and application of pesticides and upon the state of the art and technical capabilities and limitations in pesticide control and report its recommendations thereon to the commissioner.

L.1971, c. 176, s. 7, eff. June 1, 1971.

13:1F-8 - Advice to commissioner on proposed regulations.

The commissioner shall consult with the council to afford them an opportunity to furnish advice concerning any proposed regulation at least 30 days prior to the public advertisement thereof.

L.1971, c. 176, s. 8, eff. June 1, 1971.

13:1F-9 - Injunctive relief; penalties.

The department shall have power, in addition to those granted by any other law, to

- a. Conduct and supervise research programs for the purpose of determining the effects and hazards of the use and application of pesticides on man and his environment; and in furtherance of this research effort the commissioner shall consider the School of Agriculture of Rutgers, The State University, as a primary source of assistance;
- b. Conduct and supervise Statewide programs of pesticide control education including the preparation and distribution of information relating to pesticide control;
- c. Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected violation of law relating to pesticides and ascertaining compliance or noncompliance with any rules, regulations or orders of the department;

- d. Receive or initiate complaints of violations of applicable laws, rules, regulations and orders relating to pesticides and institute legal proceedings for the prevention of such violations and for the recovery of penalties, in accordance with law;
- e. With the approval of the Governor, cooperate with, and receive money from, the Federal Government, the State Government, or any county or municipal government or from private sources for the study and control of pesticides;
- f. Declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
- g. Determine whether pesticides are highly toxic to man;
- h. Determine standards of coloring or discoloring for pesticides;
- i. Subject pesticides to the requirements of Section 11 of P.L.1971, c. 176 (C. 13:1F-11);
- j. Cooperate with, and enter into agreement with, any other agency of this State, or the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulations, in order to avoid confusion endangering the public health, resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs due to the necessity complying with such diverse requirements in the manufacture and sale of such pesticides;
- k. Have the power, in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall reflect the actual or projected expense incurred by the department in the performance of the service for which the fee is charged. All fees collected pursuant to this section shall be deposited in the Environmental Services Fund created pursuant to P.L.1975, c. 232 and kept separate from other receipts deposited therein and appropriated for the operation of the Pesticide Control Program in the Department of Environmental Protection.

L.1971, c. 176, s. 9, eff. June 1, 1971. Amended by L.1981, c. 538, s. 1, eff. Jan. 12, 1982.

13:1F-10 - Injunctive relief; penalties.

If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the said court may proceed in the action in a summary manner.

Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than \$3,000.00 for each offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) or in any case before a court of

competent jurisdiction wherein injunctive relief has been requested. The Superior Court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

L.1971,c.176,s.10; amended 1991,c.91,s.222.

13:1F-11 - Detained or embargoed pesticide; illegal sale, label, use or application; tag; permission to use.

Whenever an agent of the department finds, or has probable cause to believe that any pesticide is being sold, labeled, used or applied in violation of any provision of this act or any rule, regulation or order promulgated pursuant to this act, he may affix to such pesticide a tag or other appropriate marking giving notice that such pesticide has been detained or embargoed, and warning all persons not to remove, dispose, or use such pesticide until permission is given by the department or the court. It shall be a violation of this act for any person to remove, dispose, or use any detained or embargoed pesticide without such permission.

L.1971, c. 176, s. 11, eff. June 1, 1971.

13:1F-12 - Powers, duties and functions of department under other laws; effect of act.

The powers, duties and functions vested in the State Department of Environmental Protection under the provisions of this act shall not be construed to limit in any manner the functions, powers and duties vested in the State Department of Environmental Protection under any other provisions of law.

L.1971, c. 176, s. 12, eff. June 1, 1971.

13:1F-13 - Ordinances, rules or regulations of municipality, county or board of health; effect of act.

No ordinances of any governing body of a municipality or county or board of health more stringent than this act or any rules or regulations promulgated pursuant thereto shall be superseded by this act. Nothing in this act or in any rules or regulations promulgated pursuant thereto shall preclude the right of any governing body of a municipality or county or board of health, subject to the approval of the department, to adopt ordinances or regulations more stringent than this act or any rules or regulations promulgated pursuant thereto.

L.1971, c. 176, s. 13, eff. June 1, 1971.

13:1F-14 - Construction of act; severability

This act shall be liberally construed to effectuate the purpose and intent thereof.

If any clause, sentence, paragraph, or part of this act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

L.1971, c. 176, s. 14, eff. June 1, 1971. Amended by L.1981, c. 538, s. 2, eff. Jan. 12, 1982.

13:1F-15 - Pesticide held, used, distributed, sold or offered for sale or delivered for transportation or transported in intrastate commerce; annual registration renewal; denial, refusal to register or cancellation; grounds.

a. Every pesticide which is held, used, distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered annually with the department. All registrations of products shall expire on December 31, following date of issuance, unless such registration shall be renewed annually, in which event the expiration date shall be extended for each year of renewal registration, or until otherwise terminated; provided, that within the discretion of the commissioner, or his authorized representative, a change in the labeling or formula, of a pesticide may be made within the current period of registration, without requiring a re-registration of the product;

b. Each registrant, before selling or offering for sale a pesticide in this State, shall register each brand of pesticide with the department upon forms furnished by the department and shall provide the department with the information it may deem necessary;

c. The department may require the complete formula of any pesticide;

d. If it does not appear to the department that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act or the rules and regulations issued thereunder, the registrant shall be notified of the manner in which the product, labeling, or other material required to be submitted fails to comply with this act or the rules and regulations issued thereunder, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, such corrections are not forthcoming, the department shall deny registration;

e. The department is authorized and empowered to refuse to register, or to cancel the registration of, any brand of pesticide as herein provided, upon satisfactory proof that the registrant has been guilty of fraudulent and deceptive practices in the evasion or

attempted evasion of the provisions of this act or any rules and regulations promulgated thereunder; provided, that no registration shall be revoked or refused until the registrant shall have been given a hearing by the department;

f. Nothing in this act shall be construed to restrict or prohibit sales or exchanges of pesticides to each other by importers, manufacturers, or manipulators who mix pesticide materials for sale or as preventing the free and unrestricted shipment of pesticides to manufacturers or manipulators, who have registered their brands as required by the provisions of this act.

L.1981, c. 538, s. 3, eff. Jan. 12, 1982.

13:1F-16 - Violations; securement or impoundment; hearing; disposition.

a. Any pesticide that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State may be secured or impounded by order of the department if it is in violation of any other provision of this act.

b. Any person aggrieved by an order of the department to secure or impound a pesticide who shall apply for a hearing within 15 days after the issuance of the order, shall be granted a hearing in accordance with law.

c. If upon hearing it shall appear that the pesticide was offered or exposed for sale, or had in possession with intent to distribute or sell, or was intended for distribution or sale in violation of any provisions of this act, it shall be confiscated and disposed of by destruction or sale as the court or judge may direct, but no such articles shall be sold contrary to any provisions of this act. The proceeds of any sale, less the legal costs and charges, shall be paid into the Environmental Services Fund.

d. In case the article seized is of such character that when properly marked or branded its sale is not prohibited by this act, such article shall be delivered to the owner upon the payment of the costs of the proceeding and the execution and delivery to the department as obligee, of a good and sufficient bond to the effect that such article shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any state, territory, district of the United States, or of the United States.

L.1981, c. 538, s. 4, eff. Jan. 12, 1982.

13:1F-17 - Registration fee exemption.

Notwithstanding the provisions of the "Pesticide Control Act of 1971," P.L. 1971, c. 176 (C. 13:1F-1 et seq.) or any rule or regulation promulgated thereunder to the contrary, no registration fee shall be charged any certified private applicator who applies a pesticide on property or premises owned or rented by him and actively devoted to agricultural or horticultural use.

L. 1987, c. 204, s. 1.

13:1F-18 - Definition.

For the purposes of this act "land actively devoted to agricultural or horticultural use" means land, not less than three acres in area, which is devoted to:

- a. In the case of agricultural use, the production for sale of plants and animals useful to man, including but not limited to forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding or grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; and
- b. In the case of horticultural use, the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

L. 1987, c. 204, s. 2.