

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 388

Short Title: Amend Pesticide Law/AB.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources

March 16, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PESTICIDE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-437(2) reads as rewritten:

"(2) To carry out a program of planning, environmental and biological monitoring, and of investigation into long-range needs and problems concerning pesticides. In order to encourage the cooperation of private property owners needed to implement the provisions of this subdivision, the Board may enter into agreements to conduct sampling, testing, monitoring, and related activities on private property. Information obtained pursuant to these agreements shall not be disclosed in a manner that would permit the identification of an individual property owner unless the property owner has given permission to disclose the information."

Sec. 2. G. S. 143-442(e) reads as rewritten:

"(e) The Board is authorized and empowered to refuse to register, or to cancel the registration of any ~~of all~~ brands and grades of pesticides as herein provided, if the registrant fails or refuses to comply with the provisions of this Part, or any rules and regulations promulgated thereunder, or, upon satisfactory proof that the registrant or applicant has been guilty of fraudulent and deceptive practices in the evasions or

1 attempted evasions of the provisions of this Part, or any rules and regulations
2 promulgated thereunder. The Board may require the manufacturer or distributor of any
3 pesticide, for which registration has been refused, cancelled, suspended or voluntarily
4 discontinued or which has been found adulterated or deficient in its active ingredient, to
5 remove such pesticide from the marketplace."

6 Sec. 3. G.S. 143-443(b) is amended by adding the following new subdivisions:

7 "(6) For any person to assault, resist, impede, intimidate, or interfere with
8 any State employee while that employee is engaged in the performance
9 of his or her duties under this Article.

10 (7) For any person to apply, for compensation, a pesticide that has not been
11 registered pursuant to G.S. 143-442."

12 Sec. 4. G.S. 143-448(c) reads as rewritten:

13 "(c) The license for a pesticide dealer may be renewed annually upon application to
14 the Board, accompanied by a fee of ~~twenty five dollars (\$25.00)~~ thirty dollars (\$30.00) for
15 each license, on or before the first day of January of the calendar year for which the
16 license is issued."

17 Sec. 5. G.S. 143-460(10) reads as rewritten:

18 "~~(10) 'Engage in business' means any application of pesticide by any person~~
19 ~~for use upon lands of another, or any sale of pesticide by any person."~~

20 Sec. 6. G.S. 143-460(29) reads as rewritten:

21 "~~(29) 'Pesticide applicator' includes~~ means any person who owns or manages
22 operates a pesticide application business which is engaged in the business
23 of applying or who provides, for compensation, a service that includes
24 the application of pesticides upon the lands or properties of another; any
25 public operator; any golf course operator; any seed treater; any person
26 engaged in demonstration or research pest control; and any other person
27 who acts as a pesticide applicator applies pesticides for compensation and
28 is not exempt from this definition. It does not include:

- 29 a. Any person who uses or supervises the use of a pesticide (i) only
30 for the purpose of producing an agricultural commodity on
31 property owned or rented by him or his employer, or (ii) only (if
32 applied without compensation other than trading of personal
33 services between producers of agricultural commodities) on the
34 property of another person, or (iii) only for the purposes set forth
35 in (i) and (ii) above.
- 36 b. Any person ~~regulated by~~ who applies pesticides for structural pest
37 control, as defined in the North Carolina Structural Pest Control
38 Law (G.S. Chapter 106, Article 4C).
- 39 c. Any person certified by the Water Treatment Facility Operators
40 Board of Certification under Article 2 of Chapter 90A of the
41 General Statutes or by the Wastewater Treatment Operators Plant
42 Certification Commission under Article 3 of Chapter 90A of the

1 General Statutes who applies pesticides labeled for the treatment
2 of water or wastewater.

3 d. Any person who applies antimicrobial pesticides that are not
4 classified for restricted use and are not being used for
5 agricultural, horticultural, or forestry purposes.

6 e. Any person who applies a general use pesticide to the property of
7 another as a volunteer, without compensation.

8 f. Any person who is employed by a licensed pesticide applicator."

9 Sec. 7. G.S. 143-465 is amended by adding the following new subsection:

10 "(d) No county, city, or other political subdivision of the State shall adopt or
11 continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale,
12 distribution, storage, transportation, disposal, formulation, labeling, registration,
13 manufacture, or application of pesticides."

14 Sec. 8. G.S. 143-466(a) reads as rewritten:

15 "(a) The Board shall require licensees to maintain records with respect to the sale
16 and application of such pesticides as it may from time to time prescribe. Such relevant
17 information as the Board may deem necessary may be specified by regulation. Such
18 records shall be kept for a period of three years from the date of the application of the
19 pesticide to which such records refer, and shall be available for inspection and copying
20 by the Board or its agents at its request."

21 Sec. 9. G.S. 143-469(b) reads as rewritten:

22 "(b) A civil penalty of not more than two thousand dollars (\$2,000) may be
23 assessed by the Board against any person who:

24 ~~(1) Sells or offers for sale any unregistered pesticide in violation of G.S.~~
25 ~~143-442;~~

26 ~~(2) Uses a pesticide in a manner inconsistent with its labeling;~~

27 ~~(3) Stores or disposes of a pesticide or pesticide container by means other~~
28 ~~than means prescribed on the labeling or regulations adopted pursuant to~~
29 ~~this Article;~~

30 ~~(4) Makes false or fraudulent claims about the effect of any pesticide or~~
31 ~~method of application of a pesticide;~~

32 ~~(5) Violates any stop sale, stop use, or removal order adopted under G.S.~~
33 ~~143-447;~~

34 ~~(6) Fails to provide names and addresses of recipients of pesticides which~~
35 ~~are the subject of stop sale, stop use, or removal orders when the person~~
36 ~~is the registrant of the pesticide or has sold or distributed the pesticide;~~

37 ~~(7) Fails to make and keep records required by this Article, fails to make~~
38 ~~reports when required by this Article or refuses to make such records~~
39 ~~and reports available for audit or inspection by the Board or its agents;~~

40 ~~(8) Falsifies all or part of any application for the registration of a pesticide~~
41 ~~or the issuance or renewal of any license under this Article;~~

42 ~~(9) Makes false statements or provides false information in connection with~~
43 ~~any investigation conducted under this Article;~~

- 1 ~~(10) Operates as a pesticide applicator, consultant or dealer without a license;~~
2 ~~(11) Makes any restricted use pesticide available for use by any person other~~
3 ~~than a certified private applicator, licensed pesticide applicator, certified~~
4 ~~structural pest control applicator, or structural pest control licensee or an~~
5 ~~employee working under the direct supervision of such applicator or~~
6 ~~licensee.~~
7 ~~(12) Distributes, sells or offers for sale any restricted use pesticide to any~~
8 ~~dealer who does not hold a valid North Carolina Pesticide Dealer~~
9 ~~License.~~

10 ~~In determining the amount of any penalty, the Board may consider the degree and~~
11 ~~extent of harm caused by the violation and the cost of rectifying the damage caused by~~
12 ~~the violation. who violates or directly causes a violation of any provision of this Article~~
13 ~~or any rule adopted pursuant to this Article."~~

14 Sec. 10. G.S. 143-469(c) reads as rewritten:

15 "(c) Proceedings for the assessment of civil penalties under this section shall be
16 governed by Chapter 150B of the North Carolina General Statutes. If the person assessed
17 a civil penalty fails to pay the penalty to the North Carolina Department of Agriculture,
18 the Board may institute an action in the superior court of the county in which the person
19 resides or has his principal place of business to recover the unpaid amount of said
20 penalty. An action to recover a civil penalty under this section shall not relieve any party
21 from any other penalty prescribed by law. Failure to pay, within 30 days, a civil penalty
22 assessed under this section shall be grounds for denial, suspension, or revocation of any
23 license or registration issued pursuant to this Article."

24 Sec. 11. This act is effective upon ratification.