

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1890

H.P. 1330

House of Representatives, January 3, 2006

An Act To Make Revisions to the Laws Governing Pesticide Control

Reported by Representative PIOTTI of Unity for the Department of Agriculture, Food and Rural Resources pursuant to Public Law 2005, chapter 382, Part G, section 1.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 7 MRSA §601**, as enacted by PL 1975, c. 382, §3, is amended to read:

6 **§601. Title**

8 This subchapter shall may be known and cited as the "Maine Pesticide Control Act of 1975."

10 **Sec. 2. 7 MRSA §602**, as repealed and replaced by PL 1993, c. 349, §22, is amended to read:

14 **§602. Enforcing official**

16 This subchapter is administered by the Board of Pesticides Control, ~~hereinafter~~ referred to in this subchapter as the "board," established in Title 5, section 12004-D, subsection 3 and further described in Title 22, chapter 258-A.

20 **Sec. 3. 7 MRSA §604**, as amended by PL 1989, c. 878, Pt. E, §2, is further amended to read:

24 **§604. Definitions**

26 As used in this subchapter, unless the context otherwise indicates, the following ~~words--shall~~ terms have the following meanings.

30 **1. Active ingredient.** "Active ingredient" means any ingredient which that will prevent, destroy, repel, control or mitigate pests, or which that will act as a plant regulator, defoliant or desiccant.

34 **2. Adulterated.** "Adulterated," ~~shall--apply--to--any pesticide if its strength or purity falls below the professed standard of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted,~~ as applied to a pesticide, means that:

42 A. The pesticide's strength or purity falls below the standard of quality as expressed on the labeling under which it is sold;

46 B. A substance has been substituted wholly or in part for the pesticide; or

2 C. A valuable constituent of the pesticide has been wholly
3 or in part abstracted.

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

8 **4. Beneficial insects.** "Beneficial insects" means those
9 insects ~~which~~ that, during their life cycle, are effective
10 pollinators of plants, are parasites or predators of pests or are
11 otherwise beneficial.

12 ~~**5. -- Commissioner. -- "Commissioner" means the Commissioner of**~~
13 ~~**Agriculture, Feed and Rural Resources or his authorized agents.**~~

14 **6. Defoliant.** "Defoliant" means any substance or mixture
15 of substances intended for causing the leaves or foliage to drop
16 from a plant, with or without causing abscission.

17 **7. Desiccant.** "Desiccant" means any substance or mixture
18 of substances intended for artificially accelerating the drying
19 of plant tissue.

20 **8. Device.** "Device" means any instrument or contrivance,
21 other than a firearm, ~~which~~ that is intended for trapping,
22 destroying, repelling or mitigating any pest or any other form of
23 plant or animal life, other than ~~man~~ a human being and other
24 ~~baeteria~~ than a bacterium, virus or other microorganism on or in
25 a living man human being or other living animals, ~~--but--not~~
26 ~~including~~ animal. "Device" does not include equipment used for
27 the application of pesticides when sold separately ~~therefrom~~ from
28 pesticides.

29 **9. Distribute.** "Distribute" means to offer for sale, hold
30 for sale, sell, barter, ship, deliver for shipment or receive
31 and, having so received, deliver or offer to deliver, pesticides
32 in this State.

33 **10. Environment.** "Environment" includes water, air, and
34 land and all plants and ~~man~~ human beings and other animals living
35 therein, and the interrelationships ~~which~~ that exist among these.

36 **11. EPA.** "EPA" means the United States Environmental
37 Protection Agency.

38 **12. FIFRA.** "FIFRA" means the Federal Insecticide,
39 Fungicide and Rodenticide Act.

40 **13. Fungi.** "Fungi" means all nonchlorophyll-bearing
41 thallophytes, that is, all nonchlorophyll-bearing plants of a

2 lower order than mosses and liverworts, ~~as,--for--example,~~
3 including but not limited to rusts, smuts, mildews, molds, yeasts
4 and bacteria, except those on or in living ~~man~~ human beings or
5 other living animals, and except those in or on processed food,
6 beverages or pharmaceuticals.

7 **14. Highly toxic pesticide.** "Highly toxic pesticide" means
8 any pesticide determined to be a highly toxic pesticide under the
9 ~~authority of FIFRA,~~ Section 25(c)(2) ~~of FIFRA~~ or by the board
10 under section 610, subsection 1, paragraph B.

11 **15. Imminent hazard.** "Imminent hazard" means a situation
12 which that exists when the continued use of a pesticide during
13 the time required for cancellation proceedings pursuant to
14 section 609 would likely result in unreasonable adverse effects
15 on the environment or will involve unreasonable hazard to the
16 survival of a species declared endangered by the United States
17 Secretary of the Interior under United States Public Law 91-135.

18 **16. Inert ingredient.** "Inert ingredient" means an
19 ingredient which that is not an active ingredient.
20

21 **17. Ingredient statement.** "Ingredient statement" means a
22 statement of the ~~name and percentage of each active ingredient~~
23 ~~together with the total percentage of the inert ingredients in~~
24 ~~the pesticide,--and when the pesticide contains arsenic in any~~
25 ~~form,--the ingredient statement shall also include percentages of~~
26 ~~total and water-soluble arsenic,--each calculated as elemental~~
27 ~~arsenic, following:~~
28 arsenic, following:

29 A. The name and percentage of each active ingredient
30 together with the total percentage of the inert ingredients
31 in the pesticide; and

32 B. If the pesticide contains arsenic in any form, the
33 percentages of total and water-soluble arsenic, each
34 calculated as elemental arsenic.

35 **18. Insect.** "Insect" means any of the numerous small
36 invertebrate animals generally having the body more or less
37 obviously segmented, for the most part belonging to the class
38 insecta, comprising 6-legged, usually winged forms, ~~as--for~~
39 ~~example,~~ including but not limited to beetles, bugs, bees, and
40 flies, and to other allied classes or arthropods whose members
41 are wingless and usually have more than 6 legs, ~~as-for-example,~~
42 including but not limited to spiders, mites, ticks, centipedes
43 and wood lice.
44
45
46
47
48

19. **Label.** "Label" means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

20. **Labeling.** "Labeling" means the label and all other written, printed or graphic matter ~~accompanying the pesticide or device at any time, or to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of EPA, the United States Department of Agriculture and Interior and United States Department of Health, Education and Welfare, state experiment stations, state agricultural colleges and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.~~

A. Accompanying the pesticide or device at any time; or

B. To which reference is made on the label or in literature accompanying the pesticide or device, except current official publications of EPA, the United States Department of Agriculture, the United States Department of the Interior, the United States Department of Health and Human Services, a state experiment station, a state agricultural college or other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

21. **Land.** "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

22. **Nematode.** "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented ~~round-worms~~ roundworms with elongated fusiform or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; nematodes may also be called nemas or eelworms.

23. **Person.** "Person" means any individual, partnership, association, fiduciary, corporation or any organized group of persons whether incorporated or not.

24. **Pest.** "Pest" means any insects, rodents, nematodes, fungi, weeds, and other forms of terrestrial or aquatic plant or animal life or ~~virus~~ viruses, bacteria or other ~~microorganism~~ microorganisms, except viruses, bacteria or other microorganisms on or in living ~~man~~ human beings or other living animals, ~~which~~ that the commissioner declares to be a pest under section 610, subsection 1, paragraph A.

2 **25. Pesticide.** "Pesticide" means any substance or mixture
4 of substances intended for preventing, destroying, repelling or
6 mitigating any pests, and any substance or mixture of substances
intended for use as a plant regulator, defoliant or desiccant.
This---definition---also "Pesticide" includes "highly toxic
pesticide."

8 **26. Plant regulator.** "Plant regulator" means any substance
10 or mixture of substances, intended through physiological action,
12 for accelerating or retarding the rate of growth or rate of
14 maturation, or for otherwise altering the behavior of plants or
the produce thereof,--but--shall, "Plant regulator" does not
include substances to the extent that they are intended as plant
nutrients, trace elements, nutritional chemicals, plant
inoculants and or soil amendments.

16 **27. Protect health and the environment.** "Protect health
18 and the environment" means ~~pretection~~ to protect against any
unreasonable adverse effects on the environment.

20 **28. Registrant.** "Registrant" means a person who has
22 registered any pesticide pursuant to the provisions of this
subchapter.

24 **29. Registration.** "Registration" ~~also--means~~ includes
26 reregistration.

28 **30. Restricted use pesticide.** "Restricted use pesticide"
30 means any pesticide or pesticide use classified for restricted
use by the ~~Administrator,~~ EPA Administrator.

32 **31. Rodent.** "Rodent" means any member of the animal group
34 of the order rodentia, including but not limited to rats, mice,
gophers, porcupines and squirrels.

36 **32. Unreasonable adverse effects on the environment.**
38 "Unreasonable adverse effects on the environment" means any
unreasonable risk to ~~man~~ human beings or the environment, taking
40 into account the economic, social and environmental costs and
benefits of the use of any pesticide.

42 **33. Weed.** "Weed" means any plant ~~which~~ that grows where it
44 is not wanted.

46 **34. Wildlife.** "Wildlife" means all living things that are
48 neither human, domesticated nor, as defined in this subchapter,
pests, including but not limited to mammals, birds and aquatic
life.

2 **Sec. 4. 7 MRSA §605**, as enacted by PL 1975, c. 382, §3, is
amended to read:

4 **§605. Misbranded**

6 The term "misbranded" applies:

8 **1. False, misleading or inconspicuous labeling.** ~~To-any~~ As applied to any pesticide subject to this subchapter means that:

10 A. ~~If--its~~ Its labeling bears any statement, design or
12 graphic representation relative ~~thereto~~ to the pesticide or
14 to its ingredients which that is false or misleading in any
particular;

16 B. ~~If--it~~ It is an imitation of or is distributed under the
18 name of another pesticide; or

20 C. ~~If--any~~ Any word, statement or other information required
22 to appear on the label or labeling is not prominently placed
thereon with such conspicuousness, as compared with other
24 words, statements, designs or graphic matter, in the
labeling and in such terms, as to render it likely to be
26 read and understood by the ordinary individual under
customary conditions of purchase and use; or

28 **2. Lack of certain information.** ~~To-any~~ As applied to any pesticide means that:

30 A. ~~If--the~~ The labeling does not contain a statement of the
32 use classification under which the product is registered;

34 B. ~~If--the~~ The labeling accompanying it does not contain
36 directions for use which that are necessary for effecting
the purpose for which the product is intended and that, if
38 complied with, together with any requirements imposed under
FIFRA, Section 3(d) ~~of--FIFRA~~, are adequate to protect health
and the environment;

40 B-1. The label does not contain a warning or caution
42 statement that may be necessary and that, if complied with,
together with any requirements imposed under FIFRA, Section
44 3(d), would be adequate to protect the health and
environment;

46 B-2. The label does not bear an ingredient statement on
48 that part of the immediate container, and on the outside
container and wrapper of the retail package, if there is
50 one, through which the ingredient statement on the immediate
container cannot be clearly read, which is presented or

2 displayed under customary conditions of purchase. The
3 pesticide is not misbranded if the ingredient statement
4 appears prominently on another part of the container as
5 permitted pursuant to FIFRA, Section 2(q)(2)(A) if the size
6 or form of the container makes it impracticable to place it
7 on the part of the retail package that is presented or
8 displayed under customary conditions of purchase;

9
10 C. ~~If the label does~~ There is not bear affixed to its
11 container, and to the outside container or wrapper of the
12 retail package, if there is one, through which the required
13 information on the immediate container cannot be clearly
14 read, a label bearing:

15 (1) Name The name, brand or trademark under which the
16 pesticide is distributed sold;

17 (2) ~~An ingredient statement on that part of the~~
18 ~~immediate container, and on the outside container and~~
19 ~~wrapper of the retail package, if there be one, through~~
20 ~~which the ingredient statement on the immediate~~
21 ~~container cannot be clearly read, which is presented or~~
22 ~~displayed under customary conditions of purchase,~~
23 ~~provided that the ingredient statement may appear~~
24 ~~prominently on another part of the container as~~
25 ~~permitted pursuant to Section 2(q)(2)(A) of FIFRA if~~
26 ~~the size or form of the container makes it~~
27 ~~impracticable to place it on the part of the retail~~
28 ~~package which is presented or displayed under customary~~
29 ~~conditions of purchase;~~

30
31 (3) ~~A warning or caution statement which may be~~
32 ~~necessary and which, if complied with together with any~~
33 ~~requirements imposed under Section 3(d) of FIFRA, would~~
34 ~~be adequate to protect the health and environment;~~

35 (4) The net weight or measure of the content;

36
37 (5) The name and address of the manufacturer,
38 registrant or person for whom manufactured; and

39
40 (6) The EPA registration number assigned to each
41 establishment in which it was produced and the EPA
42 registration number assigned to the pesticide, if
43 required by regulations under FIFRA.;

44
45 D. ~~If that~~ The pesticide contains any substance or
46 substances in quantities highly toxic to man human beings
47 unless the label bears, in addition to other label
48 requirements:

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

- (1) The skull and crossbones;
- (2) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and
- (3) A statement of a practical treatment, including first aid or otherwise, in case of poisoning by the pesticide; or

E. ~~If--the~~ The pesticide container does not bear a registered label or ~~if~~ the label does not contain all the information required by this subchapter or the ~~regulations~~ rules adopted under this subchapter.

Sec. 5. 7 MRSA §606, as amended by PL 1989, c. 878, Pt. E, §§3 and 4, is further amended to read:

§606. Prohibited acts

1. Unlawful distribution. ~~It is unlawful for any~~ A person ~~to~~ may not distribute in the State any of the following:

- A. ~~Any~~ A pesticide ~~which~~ that has not been registered pursuant to the provisions of this subchapter; ;
- B. ~~Any~~ A pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; ~~provided--that~~ a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product, if the registration is amended to reflect ~~sueh~~ that change and if ~~sueh~~ that change will not violate any provision of FIFRA or this subchapter;
- C. ~~Any~~ A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to ~~sueh~~ the container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this subchapter and ~~the--regulations~~ rules adopted under this subchapter;
- D. ~~Any~~ A pesticide ~~which~~ that has not been colored or discolored pursuant to ~~the--provision--of~~ section 610, subsection 1, paragraph D;

2 E. Any A pesticide which that is adulterated or misbranded
4 or any device which that is misbranded; or

6 F. Any A pesticide in containers which that are unsafe due
8 to damage.

8 **2. Unlawful alteration, misuse, divulging of formulas,
10 transportation, disposal and noncompliance. ~~It shall be unlawful~~
12 A person may not:**

12 A. ~~For any person to detach~~ Detach, alter, deface or
14 destroy, wholly or in part, any label or labeling provided
16 for in this subchapter or ~~regulations~~ rules adopted under
18 this subchapter, ~~or to add any substance to, or take any
substance from, a pesticide in a manner that may defeat the
purpose of this subchapter or the regulations adopted
thereunder;~~

20 A-1. Add any substance to or take any substance from a
22 pesticide in a manner that may defeat the purpose of this
subchapter or rules adopted under this subchapter;

24 B. ~~For any person to use~~ Use or cause to be used any
26 pesticide in a manner inconsistent with its labeling or ~~to
regulations~~ with rules of the board, if those ~~regulations~~
28 rules further restrict the uses provided on the labeling;

30 C. ~~For any person to use~~ Use for that person's own
32 advantage or ~~to~~ reveal, other than to the board or proper
34 officials or employees of the state or federal executive
36 agencies, ~~or~~ to the courts of this State or of the United
38 States in response to a subpoena, ~~or~~ to physicians, or in
40 emergencies to pharmacists and other qualified persons for
42 use in the preparation of antidotes, any information
relative to formulas of products acquired by authority of
section 607 or any information judged by the board as
44 ~~containing to contain~~ or ~~relating~~ relate to trade secrets or
commercial or financial information obtained by authority of
46 this subchapter and marked as privileged or confidential by
48 the registrant;

44 D. ~~For any person to handle~~ Handle, transport, store,
46 display or distribute pesticides in such a manner as to
48 endanger ~~man and his~~ human beings or their environment or to
endanger food, feed or any other products that may be
transported, stored, displayed or distributed with such
pesticides;

2 E. ~~For any person to dispose~~ Dispose of, discard or store
any pesticides or pesticide containers in such a manner as
4 may cause injury to humans, vegetation, crops, livestock,
wildlife, or beneficial insects or pollute any water supply
or waterway;

6
8 F. ~~For any person to refuse~~ Refuse or otherwise fail to
comply with the provisions of this subchapter, the
10 regulations rules adopted hereunder under this subchapter,
or of any lawful order of the board; or

12 G. ~~For any person to apply~~ Apply pesticides in a manner
inconsistent with rules for pesticide application adopted by
14 the board, ~~which rules are designed to minimize pesticide
drift to the maximum extent practicable under currently
16 available technology. Without limitation, these rules may
prescribe procedures to be used for the application of
18 pesticides, including the time, place, manner and method of
that application, may restrict or prohibit use of pesticides
20 in designated areas or during specified periods of time and
may prescribe tolerance levels for pesticide residues in
22 off-target areas. The board shall propose the rules by June
15, 1985.~~

24
26 **Sec. 6. 7 MRSA §607**, as amended by PL 2003, c. 282, §1, is
further amended to read:

28 **§607. Registration**

30 1. **Conditions requiring registration.** Every A pesticide
32 ~~which is~~ may not be distributed in this State ~~shall be unless it~~
is registered with the board ~~subject to the in accordance with~~
34 the provisions of this subchapter, ~~Such registration shall be
renewed annually prior to January 1, provided that registration
36 is not required if a pesticide is shipped from one plant or
warehouse to another plant or warehouse operated by the same
person and used solely at such plant or warehouse as a
38 constituent part to make a pesticide which is registered under
the provisions of this subchapter, or if the pesticide is
40 distributed under the provisions of an experimental use permit
issued under section 608 or an experimental use permit issued by
42 EPA, except that registration is not required if:~~

44 A. A pesticide is shipped from one plant or warehouse to
46 another plant or warehouse operated by the same person and
is used solely at that plant or warehouse as a constituent
48 part to make a pesticide that is registered under the
provisions of this subchapter; or

2 B. A pesticide is distributed under the provisions of an
3 experimental use permit issued by EPA.

4 **2. Contents of statement made by applicant.** The applicant
5 for registration shall file a statement with the board, which
6 shall must include:

8 A. The name and address of the applicant and the name and
9 address of the person whose name will appear on the label,
10 if other than applicant's;

12 B. The name of the pesticide;

14 C. Other necessary information required ~~for completion of~~
15 ~~the department's application for registration forms by the~~
16 board; and

18 D. A complete copy of the labeling accompanying the
19 pesticide and a statement of all claims to be made for it,
20 including the directions for use and the use classification
21 as provided for in FIFRA.

22 **3. Submission of formula.** The board, when it deems
23 determines it necessary in the administration of this subchapter,
24 may require the submission of the complete formula of any
25 pesticide, including the active and inert ingredients.

28 **4. Test results.** The board may require a full description
29 of the all tests made and the results thereof of those tests on
30 any pesticide not registered pursuant to ~~the Federal Insecticide,~~
31 ~~Fungicide--and--Rodenticide--Act~~ FIFRA, Section 3 or on any
32 pesticide on which restrictions are being considered by the
33 board. In the case of renewal of registration, the board may
34 require a statement ~~shall be required~~ only with respect to test
35 result information ~~which that~~ is different from that furnished
36 when the pesticide was registered or last reregistered.
37 ~~Notwithstanding Title 1, section 402, data submitted under this~~
38 ~~subsection and subsections 3 and 5 are confidential and shall not~~
39 ~~be available for public inspection.~~

40 **5. Power to require other information.** The board may
41 prescribe by rules adopted under section 610 require the
42 submission of other necessary information ~~by regulation adopted~~
43 ~~in a manner consistent with the Maine Administrative Procedure~~
44 ~~Act.~~

46 **5-A. Confidentiality.** Notwithstanding Title 1, section
47 402, data submitted pursuant to subsections 3, 4 and 5 are
48 confidential and may not be available for public inspection.

2 **6. Registration fee; validity.** The applicant desiring to
3 register a pesticide shall must pay an annual registration fee of
4 ~~\$105 beginning in calendar year 1994, \$115 beginning in calendar~~
5 ~~year 2003 and \$125 beginning in calendar year 2004 and thereafter~~
6 for each pesticide registered for that applicant. Annual
7 registration periods expire on December 31st ~~of any one year~~ or
8 in a manner consistent with Title 5, section 10002, ~~as to license~~
9 ~~expiration, whichever is later.~~

10 **7. Renewal of registration.** Forms Registrations must be
11 renewed annually prior to January 1st. The board shall mail
12 forms for reregistration shall ~~be mailed~~ to registrants at least
13 30 days prior to the due date.

14 **~~8. Approval of application for registration.~~**

15 ~~A. Provided the State is authorized by the Administrator of~~
16 ~~the United States Environmental Protection Agency to~~
17 ~~register pesticides pursuant to Sections 24(a) and 24(c) of~~
18 ~~FIFRA, the board shall consider the required information set~~
19 ~~forth under subsections 2, 3, 4 and 5 and shall, subject to~~
20 ~~the terms and conditions of the United States Environmental~~
21 ~~Protection Agency certification, register such pesticide if~~
22 ~~it determines that:~~

23 ~~(1) Its composition is such as to warrant the proposed~~
24 ~~claims for it;~~

25 ~~(2) Its labeling and other material required to be~~
26 ~~submitted comply with the requirements of this~~
27 ~~subchapter;~~

28 ~~(3) It will perform its intended function without~~
29 ~~unreasonable adverse effects on the environment;~~

30 ~~(4) When used in accordance with widespread and~~
31 ~~commonly recognized practice, it will not generally~~
32 ~~cause unreasonable adverse effects on the environment;~~
33 ~~and~~

34 ~~(5) A need for the pesticide exists.~~

35 ~~If, within 180 days from the date the completed application~~
36 ~~for registration is submitted, the Board of Pesticides~~
37 ~~Control fails to act upon an application for registration of~~
38 ~~a pesticide which has been certified by the United States~~
39 ~~Environmental Protection Agency the pesticide shall be~~
40 ~~deemed registered under this chapter, unless the Board of~~
41 ~~Pesticides Control issues a written statement containing the~~
42 ~~reasons for the failure to act upon the application. The~~

2 statement--of--the--Board--of--Pesticides--Control--shall--be
considered--a--refusal--to--register--pursuant--to--section--609.

4 This--paragraph--does--not--apply--if--the--registrant--fails--to
6 provide--any--information--required--to--be--submitted--under--this
chapter--or--does--not--provide--other--information--requested--by
8 the--Board--of--Pesticides--Control--in--order--to--determine
whether--the--pesticide--should--be--registered.

10 The--preceding--paragraph--does--not--affect--the--rights--of--the
12 Board--of--Pesticides--Control--to--make--further--inquiry
regarding--the--registration--of--a--pesticide--or--to--refuse
14 reregistration,--suspend--or--revoke--registration--or--otherwise
restrict--or--condition--the--use--of--pesticides--in--order--to
16 protect--public--health--and--the--environment.

18 B.--Prior--to--registering--a--pesticide--for--a--special--local
need,--the--board--shall--classify--the--uses--of--the--pesticide--for
20 general--or--restricted--use--in--conformity--with--Section--3(d)--of
FIFRA,--provided,--that--the--board--shall--not--make--any--lack--of
22 essentiality--a--criterion--for--denying--registration--of--any
pesticide. Where 2 pesticides meet the requirements of this
24 paragraph, one should not be registered in preference to the
other.

26 C.--The--board--may--develop--and--promulgate--such--other
28 requirements--by--regulation,--adopted--in--a--manner--consistent
with--the--Maine--Administrative--Procedure--Act,--as--are
30 necessary--for--the--state--plan--to--receive--certification--from
EPA.

32 **B-A. Approval of application for registration.** The
34 processing of an application for registration is governed by this
subsection.

36 A. The board shall consider the required information set
38 forth under subsections 2, 3, 4 and 5 and shall register a
pesticide if it determines that:

40 (1) Its composition warrants the proposed claims for
42 it;

44 (2) Its labeling and other material required to be
submitted comply with the requirements of this
46 subchapter;

48 (3) It will perform its intended function without
unreasonable adverse effects on the environment;

2 (4) When used in accordance with widespread and
3 commonly recognized practice, it will not generally
4 cause unreasonable adverse effects on the environment;
5 and

6 (5) A need for the pesticide exists.

8 B. If, within 180 days from the date the completed
9 application for registration is submitted, the board fails
10 to act upon an application for registration of a pesticide
11 that has been certified by EPA, the pesticide is deemed
12 registered under this chapter unless the board issues a
13 written statement containing the reasons for the failure to
14 act upon the application. The statement of the board is
15 deemed a refusal to register pursuant to section 609.

16 C. Paragraphs A and B do not apply if the registrant fails
17 to provide any information required to be submitted under
18 this subchapter or does not provide other information
19 requested by the board in order to determine whether the
20 pesticide should be registered.

21 Nothing in this paragraph affects the rights of the board to
22 make further inquiry regarding the registration of a
23 pesticide or to refuse reregistration, to suspend or revoke
24 registration or to otherwise restrict or condition the use
25 of pesticides in order to protect public health and the
26 environment.

27 D. Prior to registering a pesticide for a special local
28 need, the board shall classify the uses of the pesticide for
29 general or restricted use in conformity with FIFRA, Section
30 3(d). The board may not make any lack of essentiality a
31 criterion for denying registration of any pesticide. When 2
32 pesticides meet the requirements of this paragraph, the
33 board may not register one in preference to the other.

34 E. The board may establish such other requirements by rule
35 in accordance with section 610 as are necessary to carry out
36 the provisions of this subsection.

37 9. Adverse environmental effects. If, at any time after the
38 registration of a pesticide, the registrant has additional
39 factual information regarding unreasonable adverse effects of a
40 pesticide on the environment of ~~the pesticide~~, the registrant
41 shall submit such that information to the board.

42 Sec. 7. 7 MRSA §607-A, as corrected by RR 1997, c. 2, §26 and
43 amended by PL 2003, c. 689, Pt. B, §6, is repealed.

44

2 **Sec. 8. 7 MRSA §608**, as amended by PL 1989, c. 878, Pt. E, §7
and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

4 **Sec. 9. 7 MRSA §609**, as amended by PL 1989, c. 878, Pt. E,
§8, is further amended to read:

6
8 **§609. Refusal to register; cancellation; suspension; legal
recourse**

10 **1. Procedure.** ~~Provided--the--State--is--certified--by--the~~
12 ~~Administrator--of--EPA--to--register--pesticides--formulated--to--meet~~
~~special--local--needs--the--board--shall--consider--the~~ The following
14 ~~for--refusal--to--register--for--cancellation--for--suspension--or--for~~
~~legal--recourse--for--such--pesticides~~ provisions govern the board
16 when refusing to register a pesticide, refusing to renew a
pesticide registration, canceling a pesticide registration or
18 suspending a pesticide registration. ~~This---registration,~~
~~cancellation--and--suspension--shall--be--considered--rule--making--as~~
20 ~~that--term--is--defined--in--the--Maine--Administrative--Procedure--Act~~
~~and--notice--shall--be--provided--in--a--manner--consistent--with--the~~
22 ~~Maine--Administrative--Procedure--Act.~~

24 A. If it does not appear to the board that ~~the~~ a pesticide
~~is--such--as--to--warrant~~ warrants the proposed claims for it or
26 if the pesticide and its labeling and other material
required to be submitted do not comply with the provisions
28 of this subchapter or ~~regulations~~ rules adopted ~~thereunder~~
under this subchapter, the board shall notify the applicant
of the manner in which the pesticide, labeling or other
30 material required to be submitted fails to comply with the
provisions of this subchapter so as to afford the applicant
32 an opportunity to make the necessary corrections ~~and--shall~~
~~notify--in--a--manner--consistent--with--the--Maine--Administrative~~
34 ~~Procedure--Act--the--applicant--of--the--opportunity--for--hearing~~
~~prior--to--refusal--to--register.~~

36 B. When the board determines that a pesticide or its
38 labeling does not comply with the provisions of this
subchapter or ~~the--regulations~~ rules adopted ~~thereunder~~ under
40 this subchapter, the board may cancel or refuse to renew the
registration of a pesticide or change its classification,
42 after notice and opportunity for hearing has been provided
in a manner consistent with the ~~rule-making-provisions--of~~
44 ~~the~~ Maine Administrative Procedure Act.

46 C. When the board determines that there is an imminent
hazard, it may, on its own motion, suspend the registration
48 of a pesticide in a ~~manner--consistent~~ accordance with the
~~Maine--Administrative--Procedure--Act,~~ Title 5, section 8054,

2 as-to-emergency-rule-making-pending-decisions-reached-after
notice-and-opportunity-for-a-hearing 10004. Hearings shall
be-held-with-the-utmost-possible-expedition.

4
6 D. When the board becomes cognizant of any possible hazard
or violation involving either a registered or-unregistered
product, it shall cause notice of such-fact,-stating-the
8 date,-hour-and-place-of-hearing,-with-a-copy-of-the-findings
or-charge-to-be-preferred, the possible hazard or violation
10 to be delivered by registered mail, return receipt
requested, to the person-concerned,-who-shall-be-given-an
12 opportunity-to-be-heard-under-such-rules-and-regulations-as
may-be-prescribed-by-the-board registrant and may cancel or
14 refuse to renew the registration of the pesticide or change
its classification after notice and opportunity for hearing
16 has been provided in a manner consistent with the Maine
Administrative Procedure Act.

18
20 E.--Any-person-who-will-be-adversely-affected-by-such-order
in-this-section-may-obtain-judicial-review-thereof-by-filing
in-the-District-Court,-within-60-days-after-the-entry-of
22 such-order,-a-petition-praying-that-the-order-be-set-aside
in-whole-or-in-part,-A-copy-of-the-petition-shall-be
24 forthwith-transmitted-by-the-clerk-of-the-court-to-the-board
and-thereupon-the-board-shall-file-in-the-court-the-record
26 of-the-proceedings-on-which-it-based-its-order.-The-court
shall-have-jurisdiction-to-affirm-or-set-aside-the-order
28 complained-of-in-whole-or-in-part.-The-findings-of-the
board-with-respect-to-questions-of-fact-shall-be-sustained,
30 if-supported-by-substantial-evidence-when-considered-on-the
record-as-a-whole.-Upon-application,-the-court-may-remand
32 the-matter-to-the-board-to-take-further-testimony,-if-there
are--reasonable--grounds--for--the--failure--to--adduce--such
34 evidence-in-the-prior-hearing.-The-board-may-modify-its
findings-and-order-by-reason-of-the-additional-evidence-so
36 taken--and--shall--file--the--additional--record--and--any
modification-of-the-findings-or-order-with-the-clerk-of-the
38 court.

40 **2. Federally registered pesticides.** If the board
determines that any federally registered pesticide, with respect
42 to the use of such pesticide within this State, does not warrant
the claims for it, or might cause unreasonable adverse effects on
44 the environment, the board may refuse to register the pesticide
as required in section 607, or, if the pesticide is registered
46 under section 607, the registration may be cancelled or suspended
as--provided--in may cancel or suspend the registration in
48 accordance with subsection 1. If the board believes the
pesticide does not comply with the provisions of FIFRA or the
50 regulations adopted thereunder by EPA pursuant to FIFRA, it shall

2 advise EPA of the manner in which the pesticide, labeling or
3 other material required to be submitted fails to comply with the
4 provisions of FIFRA, and suggest necessary corrections.

5 3. Person adversely affected by board action. Any person
6 adversely affected by a final action of the board under this
7 section may obtain judicial review thereof by filing in the
8 District Court, within 60 days after the entry of that final
9 action, a petition praying that the action be set aside in whole
10 or in part. A copy of the petition must be forthwith transmitted
11 by the clerk of the court to the board and upon receipt the board
12 shall file in the court the record of the proceedings on which it
13 based its final action. The court has jurisdiction to affirm or
14 set aside the final action complained of in whole or in part.
15 The findings of the board with respect to questions of fact must
16 be sustained if supported by substantial evidence when considered
17 on the record as a whole. Upon application, the court may remand
18 the matter to the board to take further testimony if there are
19 reasonable grounds for the failure to adduce the evidence in the
20 prior hearing. The board may modify its findings and final
21 action by reason of the additional evidence and shall file the
22 additional record and any modification of the findings or final
23 action with the clerk of the court.

24 **Sec. 10. 7 MRSA §610**, as amended by PL 1989, c. 878, Pt. E,
25 §9, is further amended to read:

26 **§610. Determinations; rules; restricted use pesticides; uniformity**

27 **1. Determinations.** The board ~~is--authorized,--after--due~~
28 ~~notice--and--an--opportunity--for--a--hearing--in--a--manner--consistent~~
29 ~~with--the--rule--making--provisions--of--the--Maine--Administrative~~
30 ~~Procedure--Act~~ may by rule:

31 **A.** ~~To--declare~~ Declare as a pest any form of plant or animal
32 life, except virus viruses, bacteria or other microorganisms
33 on or in living man human beings or other living animals,
34 ~~which--is~~ that are is injurious to health or the environment;

35 **B.** ~~To--determine~~ Determine whether pesticides registered
36 under the authority of FIFRA, Section 24(c) ~~of--FIFRA~~ are
37 highly toxic to man human beings. ~~The--definition--of--highly~~
38 ~~toxic,--as--defined--in--Title--40,--Code--of--Federal--Regulations,~~
39 Section 162.8 ~~as--issued--or--hereafter--amended,--shall--govern~~
40 ~~the--board's--determination;~~

41 **C.** ~~To--determine~~ Determine whether pesticides and or
42 quantities of substances contained in pesticides, ~~--which~~ are
43 injurious to the environment, ~~--the.~~ The board shall must be
44 guided by EPA regulations in this determination; and
45
46
47
48
49
50

2 D. ~~To prescribe regulations requiring~~ Require any pesticide
4 to be colored or discolored, if it determines that such a
6 requirement is feasible and is necessary for the protection
8 of health and the environment.

10 2. ~~Rule-making powers.~~ The board is ~~authorized, after due~~
12 ~~notice and a public hearing, in a manner consistent with the~~
14 ~~Maine Administrative Procedure Act, to make appropriate~~
16 ~~regulations for carrying~~ may adopt other rules that it determines
18 necessary to carry out the provisions of this subchapter,
20 including. The board's rule-making authority includes, but is
22 not limited to regulations providing for, rules:

24 A. The Providing for the collection, examination and
26 reporting of samples of pesticides or devices;

28 B. The Providing for the safe handling, transportation,
30 storage, display, distribution and disposal of pesticides
32 and their containers;

34 C. Labeling Establishing requirements of all pesticides
36 required to be registered under provisions of this
38 subchapter, provided that such ~~regulations shall~~ rules do
40 not impose any requirements for federally registered labels
42 in addition to or different from those required pursuant to
44 FIFRA; and

46 D. Specifying classes of devices which shall be that are
48 subject to the provisions of section 605, subsection 1;

E. Governing pesticide application, including, but not
limited to, rules:

(1) Designed to minimize pesticide drift to the
maximum extent practicable under currently available
technology;

(2) Prescribing procedures to be used for the
application of pesticides, including the time, place,
manner and method of that application; and

(3) Restricting or prohibiting the use of pesticides
in designated areas or during specified periods of
time; and

(4) Prescribing tolerance levels for pesticide
residues in off-target areas;

2 F. Prescribing the submission of information necessary for
3 the board to undertake its responsibilities under this
4 subchapter;

6 G. Prescribing requirements as necessary to carry out the
7 provisions of section 607;

8 H. Governing the registration and the cancellation and
9 suspension of registration of pesticides pursuant to section
10 609; and

12 I. For the purpose of achieving uniformity of requirements
13 between the states and the Federal Government, provided the
14 rules are in conformity with the primary pesticide
15 standards, particularly as to labeling, registration
16 requirements and criteria for classifying pesticides for
17 restricted use, as established by EPA or other federal or
18 state agencies.

20 ~~3. -- Uniformity of requirements, -- restricted uses, -- For the~~
21 ~~purpose of uniformity of requirements between the states and the~~
22 ~~Federal Government, -- the board may, after a public hearing, adopt~~
23 ~~regulations in conformity with the primary pesticide standards,~~
24 ~~particularly as to labeling, registration requirements and~~
25 ~~criteria for classifying pesticides for restricted use as~~
26 ~~established by EPA or other federal or state agencies.~~

28 Unless otherwise specified, rules adopted under this
29 subchapter are routine technical rules as defined in Title 5,
30 chapter 375, subchapter 2-A.

32 **Sec. 11. 7 MRSA §611**, as amended by PL 1989, c. 878, Pt. E,
33 §10, is further amended to read:

34 **§611. Enforcement**

36 **1. Board powers.** Notwithstanding any other provisions
37 provision of law, the sampling and examination of pesticides or
38 devices shall be made under the direction of the board for the
39 purpose of determining whether they comply with the requirements
40 of this subchapter must be done under the direction of the board.
41 The board ~~is authorized~~ may, upon presentation of proper
42 identification, ~~to~~ enter any distributor's premises, including
43 any vehicle of transport, at all reasonable times in order to
44 have access to labeled pesticides or devices packaged for
45 distribution, ~~and to~~ may open any case, package or other
46 container, and may, upon tendering the market price, take samples
47 for analysis. If it appears from such an examination that a
48 pesticide or device fails to comply with the provisions of this
49 subchapter or ~~regulations~~ rules adopted ~~thereunder~~ under this
50

2 subchapter, and the board contemplates instituting criminal
3 proceedings against any person, the board shall cause appropriate
4 notice to be given to ~~such~~ that person in a manner consistent
5 with the Maine Administrative Procedure Act. Any The board shall
6 provide any person so notified ~~shall-be-given~~ an opportunity for
7 a hearing in a manner consistent with the Maine Administrative
8 Procedure Act--as--to Act's provisions governing adjudicatory
9 proceedings. If ~~thereafter~~ in the opinion of the board it appears
10 that the provisions of this subchapter or ~~regulations~~ rules
11 adopted ~~thereunder~~ under this subchapter have been violated by
12 ~~such~~ that person, the board shall refer a copy of the results of
13 the analysis or the examination of such pesticide or device to
14 the attorney for the district in which the violation occurred.

15
16 **2. Minor violations.** Nothing in this subchapter shall ~~may~~
17 be construed as requiring the board to report minor violations of
18 this subchapter for prosecution or for the institution of
19 condemnation proceedings when the board believes that the public
20 interest will be served best by a suitable notice of warning in
21 writing.

22 **3. Repeated violations.** The board shall record all
23 violations of this ~~chapter~~ subchapter and Title 22, chapter
24 258-A, including the name of the owner of the land on which the
25 pesticides were intended to be applied, the name of the licensed
26 pesticides applicator and the name of the person who contracted
27 the pesticide application services. The board shall identify
28 persons who repeatedly violate provisions relating to pesticide
29 use and recommend to the Attorney General methods to prevent
30 ~~these-repeated~~ further violations by those persons.

31 **Sec. 12. 7 MRSA §612**, as amended by PL 1989, c. 878, Pt. E,
32 §11, is further amended to read:

33 **§612. "Stop sale, use or removal" order**

34
35
36 When the board has reasonable cause to believe a pesticide
37 or device is being distributed, stored, transported or used in
38 violation of any of the provisions of this subchapter or of any
39 of the ~~prescribed-regulations--under~~ rules adopted pursuant to
40 this subchapter, it may issue and serve a written "stop sale, use
41 or removal" order upon the owner or custodian of ~~any-such~~ that
42 pesticide or device. If the owner or custodian is not available
43 for service of the order, the board may attach the order to the
44 pesticide or device and notify the owner or custodian and the
45 registrant. The pesticide or device shall may not be sold, used
46 or removed until the provisions of this subchapter have been
47 complied with and the pesticide or device has been released in
48 writing under conditions specified by the board or the violation
49 has been otherwise disposed of as provided in this subchapter by
50

2 a court of competent jurisdiction. The issuance of such an order
3 ~~shall not be considered~~ is not a licensing or an adjudicatory
4 proceeding as defined by the Maine Administrative Procedure Act.

5 **Sec. 13. 7 MRSA §613**, as amended by PL 1989, c. 878, Pt. E,
6 §12, is further amended to read:

7 **§613. Judicial action after "stop sale, use or removal" order**

8 The following provisions govern judicial actions concerning
9 a "stop sale, use or removal" order by the board.

10 **1. Filing action; adjudication.** After service of a "stop
11 sale, use or removal" order is made upon any person, either that
12 person, the registrant or the board may file an action in a court
13 of competent jurisdiction in the district in which a the
14 ~~violation of this subchapter or regulations adopted thereunder~~ is
15 alleged to have occurred for an adjudication of the alleged
16 violation. The court ~~in such a case~~ may issue temporary or
17 permanent injunctions, mandatory or restraining, and such any
18 intermediate orders as it deems determines necessary or
19 advisable. The court may order condemnation of any pesticide or
20 device ~~which that~~ does not meet the requirements of this
21 subchapter or ~~regulations adopted thereunder~~ rules adopted under
22 this subchapter.

23 **2. Disposition of condemned pesticide; costs and fees.** If
24 the court orders that a pesticide or device is condemned, ~~it~~
25 ~~shall, after entry of decree, the court shall direct that the~~
26 ~~pesticide or device be disposed of by destruction or sale as the~~
27 ~~court directs, and if such.~~ If the pesticide or device is
28 directed to be sold, the proceeds, less costs, including legal
29 costs, ~~shall~~ must be paid to the Treasurer of State as provided
30 in section 621, ~~provided that the.~~ A pesticide or device ~~shall~~
31 may not be sold contrary to the provisions of this subchapter or
32 ~~regulations adopted thereunder~~ rules adopted under this
33 subchapter. ~~Upon payment of costs and execution and delivery of a~~
34 ~~good and sufficient bond conditioned that the pesticide or device~~
35 ~~shall not be disposed of unlawfully, the~~ When a decree of
36 condemnation is entered against a pesticide or device, the court
37 shall charge court costs, fees, storage and other proper expenses
38 against the person, if any, appearing as claimant of the
39 pesticide. The court may direct that the pesticide or device be
40 delivered to the owner thereof, upon payment of costs and
41 execution and delivery of a good and sufficient bond conditioned
42 on the pesticide or device not being disposed of unlawfully, for
43 relabeling, reprocessing or otherwise bringing the product into
44 compliance.

2 ~~3. Award of court costs and fees. When a decree of~~
3 ~~condemnation is entered against the pesticide or device, court~~
4 ~~costs, fees, storage and other proper expenses shall be awarded~~
5 ~~against the person, if any, appearing as claimant of the~~
6 ~~pesticide.~~

7 **Sec. 14. 7 MRSA §614**, as amended by PL 1989, c. 878, Pt. E,
8 §13 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is
9 repealed.

10 **Sec. 15. 7 MRSA §616**, as repealed by PL 1989, c. 841, §2 and
11 amended by c. 878, Pt. E, §15, is repealed.

12 **Sec. 16. 7 MRSA §616-A, sub-§1**, as enacted by PL 1989, c. 841,
13 §3, is amended to read:

14 **1. Informal hearing.** When the staff of the board proposes
15 that the board take action on a possible violation, the board
16 shall notify the alleged violator before discussing the alleged
17 violation. The alleged violator may choose to address the board
18 and may also choose to be represented by legal counsel. This
19 requirement does not constitute and is not subject to the same
20 procedures as an adjudicatory hearing, ~~as defined~~ under the Maine
21 Administrative Procedure Act.

22 **Sec. 17. 7 MRSA §617**, as amended by PL 1989, c. 878, Pt. E,
23 §16, is further amended to read:

24 **§617. Exemptions**

25 **1. Exemptions from penalties.** The penalties provided for
26 violations of section 606, subsection 1, paragraphs A, B, C, D
27 and E shall do not apply to:

28 A. Any carrier while lawfully engaged in transporting a
29 pesticide within this State, if such the carrier shall, upon
30 request, ~~permit~~ permits the board to copy all records
31 showing the transactions in and movement of the pesticides
32 or devices;

33 B. Public officials of this State and the Federal
34 Government while engaged in the performance of their
35 official duties in administering state or federal pesticide
36 laws or regulations;

37 C. The manufacturer, shipper or other distributor of a
38 pesticide for experimental use only, provided that such
39 person holds or is covered by a valid experimental use
40 permit ~~as provided for by section 608 or~~ issued by EPA, and

provided further that ~~such~~ the permit covers the conduct in question; or

D. Any person who ships a substance or mixture of substances being put through tests ~~in-which~~ the purpose of which is only to determine ~~its~~ the value of the substance or mixture for pesticide purposes or to determine its toxicity or other properties and from the use of which the user does not expect to receive any benefit in pest control ~~from-its~~ use.

2. Exemption from this subchapter; pesticides for export.
No A pesticide or device ~~shall-be-deemed~~ may not be found to be in violation of this subchapter ~~when~~ if the pesticide or device is intended solely for export to a foreign country, and ~~when~~ is prepared or packed according to the specifications or directions of the purchaser. ~~If the pesticide or device is not so exported,~~ all the provisions of this subchapter ~~shall~~ apply.

Sec. 18. 7 MRSA §618, as amended by PL 1989, c. 878, Pt. E, §17, is further amended to read:

§618. Publication of information

The board may publish, at least annually and in such form as it ~~may--deem~~ determines proper, results of analyses based on official samples as compared with the guaranteed analyses ~~guaranteed~~ and information concerning the distribution of pesticides, ~~--provided-that,~~ The board may not publish individual distribution information shall-not-be, and that information is not a public record under Title 1, section 402.

Sec. 19. 7 MRSA §619, as amended by PL 1989, c. 878, Pt. E, §18, is further amended to read:

§619. Delegation of duties

All authority vested in the board ~~by--virtue--of--the provisions--of~~ under this subchapter may, with like force and effort, be executed by ~~such~~ employees of the board as to whom the board ~~may~~ from time to time ~~designate-for-said-purpose~~ delegates such authority.

Sec. 20. 7 MRSA §620, first ¶, as amended by PL 1989, c. 878, Pt. E, §19, is further amended to read:

The board may cooperate with, receive grants-in-aid from and enter into cooperative agreements with any agency of the Federal Government, or of this State or its subdivisions, or with any

2 agency of another state, in order to implement this subchapter,
3 including but not limited, to taking such actions to:

4 **Sec. 21. 7 MRSA §621**, as amended by PL 1993, c. 410, Pt. S,
5 §2, is further amended to read:

6 **§621. Disposition of funds**

7
8 All money received by the board under ~~the provisions of~~ this
9 subchapter must be deposited in the State Treasury to the credit
10 of a special fund to be used for carrying out the provisions of
11 this subchapter and Title 22, chapter 258-A, Board of Pesticides
12 Control, and for such other expenses related to insect and pest
13 management as provided by law. Positions that are allocated to
14 the fund but that do not perform functions specifically assigned
15 to the board in this subchapter and Title 22, chapter 258-A
16 remain under supervision and management of the Department of
17 Agriculture, Food and Rural Resources.

18
19 **Sec. 22. 7 MRSA §622**, as enacted by PL 1975, c. 382, §3, is
20 repealed.

21
22 **Sec. 23. 7 MRSA §623**, as amended by PL 1977, c. 78, §25, is
23 further amended to read:

24
25 **§623. Prior liability**

26
27 The enactment of this subchapter ~~shall~~ does not have the
28 effect of terminating or in any way modifying any liability,
29 civil or criminal, ~~which shall already be~~ in existence on October
30 1, 1975.

31
32 **Sec. 24. 7 MRSA §625**, as enacted by PL 1989, c. 702, §1, is
33 amended to read:

34
35 **§625. Right-of-way spraying; no-spray agreements**

36
37 Any public utility, or the Department of Transportation,
38 ~~which that~~ maintains a right-of-way through a municipality shall
39 offer a no-spray agreement, with reasonable provisions, for the
40 municipality to consider if it desires. Any agreement negotiated
41 may include, but is not limited to, the responsibilities of the
42 parties, the allocation of costs and the rights and remedies of
43 the parties in the event of default and may apply to all or any
44 part of the right-of-way within the municipality. Any agreement
45 reached under this section must be negotiated in good faith,
46 written and signed by all parties. As part of the no-spray
47 agreement, the municipality may either perform the vegetation
48 control work to standards as provided in the agreement, or else

2 contract with the public utility or the Department of
Transportation to conduct the work.

4 If a reasonable no-spray agreement is offered to a
6 municipality and an agreement is not reached within 90 days after
the date of the offer, the public utility or the Department of
8 Transportation at its own option may apply pesticides in the its
right-of-way ~~under--its--jurisdiction~~ or use other methods to
10 control the vegetation. If the municipality agrees to perform
vegetation control work, but does not perform it by the
12 agreed-upon date, the public utility or the Department of
Transportation, after 90 ~~days~~ days' written notice to the
14 municipality, at its own option may apply pesticides in the its
right-of-way ~~under--its--jurisdiction~~, or use other methods to
control the vegetation.

16 It is the intent of the Legislature that this section to
18 make available to municipalities an alternative to right-of-way
maintenance procedures ~~which~~ that use pesticides. This section
20 does not affect municipal authority to enact ordinances nor the
authority of public utilities or the Department of Transportation
22 to maintain its right-of-way clear of unwanted vegetation in the
absence of an agreement.

24 **Sec. 25. Rules.** Nothing in this Act repeals or is intended to
26 repeal or substantively affect any rules of the Department of
Agriculture, Food and Rural Resources, Board of Pesticides
28 Control in effect on the effective date of this Act.

30 SUMMARY

32 This bill, which is submitted by the Department of
34 Agriculture, Food and Rural Resources pursuant to Public Law
2005, chapter 382, Part G, section 1, makes changes to the laws
36 governing pesticide control. Many of the changes are technical
or organizational changes to make the laws read more clearly or
38 to update language. This bill also makes these substantive
changes:

40 1. It repeals the Maine Revised Statutes, Title 7, section
42 607-A, which requires the Board of Pesticides Control to
undertake a risk assessment for all pesticides used in the State;
44 and

46 2. It modifies Title 7, section 609 relating to procedures
for registering, canceling or suspending registrations to make
48 the language consistent with the board's actual practices.