

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

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Legislative Document

No. 380

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S. P. 139

In Senate, January 21, 1965

Referred to Committee on Agriculture. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senators Sproul of Lincoln and Maxwell of Franklin jointly.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-FIVE

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**AN ACT Establishing a State Board of Pesticides Control.**

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

**Sec. 1. R. S., T. 22, c. 258, additional.** Title 22 of the Revised Statutes is amended by adding a new chapter 258 to read as follows:

**CHAPTER 258**

**PESTICIDES CONTROL**

**Sec. 1451. Purpose.** The purpose of this chapter is to regulate, in the public interests, the application of pesticides.

**Sec. 1452. Board of Pesticides Control.** There is established a Board of Pesticides Control to be composed of the Commissioner of Agriculture, the Commissioner of Health and Welfare, the Forest Commissioner, the Commissioner of Inland Fisheries and Game, the Commissioner of Sea and Shore Fisheries, the Chairman of the Public Utilities Commission, the Chairman of the Highway Commission and 2 public members to be appointed by the Governor for a term of 3 years, provided that in the initial appointment, one member is to be appointed for a term of 2 years. The commissioners of the state departments may appoint agents to serve in their absence. The board shall elect annually a chairman from its own membership. The public members shall be entitled to reasonable compensation for expenses incurred in traveling and attending board meetings.

**Sec. 1453. Definitions.** The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by the context:

1. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

2. Board. "Board" means the State Board of Pesticides Control as established in section 1452.

3. Custom application of pesticides. "Custom application of pesticides" means any application of pesticides by aircraft or ground equipment for hire.

4. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds.

5. Fungicide. "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

6. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, or fogs, or in other forms.

7. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

8. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insects, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

9. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

10. Pesticide. "Pesticide" means any substance or mixture of substances:

A. Intended for destroying or repelling, mitigating or preventing damage by any insect, fungus, weed or other form of plant or animal life which the board declares to be a pest; or

B. Intended for use as a plant regulator, defoliant or desiccant.

11. Weed. "Weed" means any plant which grows where not wanted.

Sec. 1454. Licenses.

1. Application. No person shall engage in custom application of pesticides within this State at any time without a license issued by the board. An annual fee of \$10 shall be collected by the board for each license. Application for a license shall be made to the board. Each application for a license shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. The board shall maintain a complete and up-to-date list of licensed applicators and shall annually publish all regulations in effect.

2. Examination. The board may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use and application of pesticides, and the dangers involved and precautions to be taken

in connection with their application. If the applicant is other than an individual, the applicant shall designate an officer, member or technician of the organization to take the examination, such designee to be subject to the approval of the board. If the extent of the applicant's operations warrants it, the board may require more than one officer, member or technician to take the examination.

3. **Restrictions.** If the board finds the applicant qualified and if the applicant files the bond required under subsection 5, the board shall issue a license for the calendar year to perform application of pesticides within this State. The license may restrict the applicant to the use of a certain type or types of equipment or materials if the board finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the board shall inform the applicant in writing of the reasons therefor.

4. **Suspension.** The board may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke or modify the provisions of any license issued under this section, if it finds that the licensee is no longer qualified, has engaged in fraudulent business practices in the application of pesticides, or has made any application in a faulty, careless or negligent manner, or has violated this chapter or regulations made thereunder.

5. **Bond.** The board shall require a liability bond in an amount and with surety satisfactory to the board, from each applicant, under such rules and regulations as it may prescribe. Any person injured by the breach of any such obligation shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

6. **Nonresidents.** The board may issue a license, without examination, to a nonresident who is licensed in another state substantially in accordance with this chapter.

7. **Appeal.** Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of any record pertaining thereto, including a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive.

**Sec. 1455. Inspection.** The board may provide for inspection of any equipment, device or apparatus used for application of pesticides and may require proper repairs or other changes before its further use for application.

**Sec. 1456. Materials and methods of application.** The board may, by regulation after public hearing, designate:

1. **Critical areas.** Land and water areas in which a critical situation has developed, appears to be developing or should not be allowed to develop relative to the use of pesticides.

2. **Limitations on use.** Those pesticides which are not to be used in areas

described in subsection 1, and specify the limitations imposed on those pesticides which may be used.

3. **Unsafe practices.** Those practices which are not in accordance with the safe and proper use of pesticides.

In issuing such regulations, the board shall give consideration to pertinent research findings and recommendations of other agencies.

Sec. 1457. **Emergency situations.** The board may without public hearing suspend for a period not to exceed 10 days, any existing regulations relative to the use of pesticides in specific land and water areas in which an emergency situation has developed, appears to be developing or should not be allowed to develop.

Sec. 1458. **Reports.** The board may, by regulation, require licensees to maintain such records and furnish reports giving such information with respect to particular applications or pesticides as it may deem necessary.

Sec. 1459. **Regulations.** The board may, after public hearing, make regulations for carrying out this chapter, provided that the regulations shall not be inconsistent with regulations issued by this State or by the Federal Government respecting safety in air navigation or operation of aircraft. Before issuing regulations directly related to any matter within the jurisdiction of any other official of this State, the board shall consult with that official with reference thereto.

Sec. 1460. **Information.** The board, on its own or in cooperation with others, may publish information regarding injury which may result from improper application or handling of pesticides and methods and precautions designed to prevent such injury.

Sec. 1461. **Penalties.** Any person who violates this chapter, or the regulations issued hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100 for the first offense and not more than \$500 for each subsequent offense. Each day that any person operates without a license required by this chapter shall be considered a separate offense.

Sec. 1462. **Exemptions.**

1. **Buildings and vehicles.** This chapter shall not apply to application of pesticides within or under buildings or within vehicles, ships, aircraft or other means of transporting persons or property by land, water or air. The use of pesticides in or under farm buildings other than dwellings shall continue to conform to existing state and federal regulations.

2. **Forestry.** This chapter shall not apply to applications made by the Forestry Department under the authority contained in Title 12, chapter 213.

3. **Agriculture.** The board may by regulation exempt from the licensing provisions of section 1454 casual agricultural applications by bona fide farmers.

Sec. 1463. **Right of entry.** The board or its agents may enter upon any public or private premises at reasonable times in order to have access for the purposes of inspecting any aircraft or ground equipment subject to this chapter.

**Sec. 1464. Cooperation.** The board may cooperate with any other agency of this State or its subdivisions or with any agency of any other state or of the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations.

**Sec. 1465. Enforcement.** The state agencies listed in section 1452 shall designate the enforcement personnel.'

**Sec. 2. Appropriation.** There is appropriated from the General Fund to the State Board of Pesticides to carry out the purposes of this Act the sum of \$2,000 for the fiscal year ending June 30, 1966 and the sum of \$2,000 for the fiscal year ending June 30, 1967. The breakdown shall be as follows:

STATE BOARD OF PESTICIDES	1965-66	1966-67
Personal Services	\$ 500	\$ 500
All Other	1,500	1,500
Capital Expenditures	—	—
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	\$2,000	\$2,000