

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1268

H. P. 958

House of Representatives, March 5, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Briggs of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Revising the Laws Relating to the Board of Pesticides Control.

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

Sec. 1. R. S., T. 22, § 1453, sub-§ 8, amended. Subsection 8 of section 1453 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended to read as follows:

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~~ **Insecta**, 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.

Sec. 2. R. S., T. 22, § 1453, sub-§ 10, amended. Subsection 10 of section 1453 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended to read as follows:

10. Pesticide. "Pesticide" means any substance or mixture of substances ~~as defined in subsections 5, 7 and 9:~~

A. Intended for destroying ~~or~~, repelling, mitigating or preventing damage by any insect, fungus, weed, **snail, slug, rodent, nematode**, 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.

Sec. 3. R. S., T. 22, § 1454, sub-§ 3, amended. The first sentence of subsection 3 of section 1454 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended to read as follows:

If the board finds the applicant qualified and if the applicant meets the requirements under subsection 5, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency, the Maine Department of Transportation and any other applicable federal or state laws or regulations to operate the equipment required, the board shall issue a license for the calendar year to perform application of pesticides within this State.

Sec. 4. R. S., T. 22, § 1454, sub-§ 3, amended. Subsection 3 of section 1454 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended by adding at the end the following new sentence: **Such license may be issued with such terms and conditions as the board deems necessary for the enforcement and administration of this chapter and the rules and regulations promulgated under this chapter.**

Sec. 5. R. S., T. 22, § 1454-A, amended. The 2nd paragraph of section 1454-A of Title 22 of the Revised Statutes, as enacted by section 1 of chapter 377 of the public laws of 1971, is amended to read as follows:

Applications for such permits shall be made, on such forms and containing such information as the board may require ~~at least 30 days prior to the date on which the applicant proposes to commence the application of pesticides for which the permit is sought.~~

Sec. 6. R. S., T. 22, § 1455, amended. The first paragraph of section 1455 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended to read as follows:

The board may provide for inspection of any pesticide materials and 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. 7. R. S., T. 22, § 1456, repealed and replaced. Section 1456 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965 and as amended, is repealed and the following enacted in place thereof:

§ 1456. Regulations

The board may regulate and control all use of pesticides in this State through regulations promulgated by it pursuant to Title 5, chapter 303. Such regulation may concern, but not be limited to: Areas of application; chemical content and labeling; methods of application and unsafe practices; critical areas where use of pesticides should be restricted; limitations on use; disposal, transportation and storage; qualifications and training of pesticide users; and sale and distribution.

In promulgating such regulations, the board shall consider pertinent research findings and the recommendations of other agencies.

Sec. 8. R. S., T. 22, § 1461, amended. Section 1461 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965 and as amended by section 4 of chapter 377 of the public laws of 1971, is further amended by adding at the end 2 new paragraphs to read as follows:

The board may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any regulation made pursuant to this chapter in the Superior Court of the county in which such violation occurs or is to occur.

No state court shall allow recovery of damages against any member, employee or representative of the board for any administrative or enforcement action taken if the court determines that there was probable cause for such action.

Sec. 9. R. S., T. 22, § 1462, sub-§ 2, repealed and replaced. Subsection 2 of section 1462 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is repealed and the following enacted in place thereof:

2. Forestry. The board may by regulation exempt from the licensing provisions of section 1454 any applications made by the Forestry Department under the emergency authority contained in Title 12, chapter 213.

Sec. 10. R. S., T. 22, § 1463, amended. Section 1463 of Title 22 of the Revised Statutes, as enacted by chapter 447 of the public laws of 1965, is amended to read as follows:

§ 1463. Right of entry

The board or its agents may enter upon any public or private premises owned or utilized by any licensee at reasonable times in order to have access for the purposes of inspecting any aircraft or ground equipment or pesticide materials subject to this chapter.

Enforcement personnel as designated by the board under section 1465 are authorized to apply for and execute such search warrants as they may deem necessary to enforce the provisions of this chapter. The manner of application and execution shall be that provided for by the statutes and rules of court of this State.

Sec. 11. R. S., T. 22, § 1466, additional. Title 22 of the Revised Statutes is amended by adding a new section 1466, to read as follows:

§ 1466. Subpoenas

The board may issue subpoenas to compel the attendance of witnesses and production of books, documents, and records anywhere in the State in any hearing affecting the authority or privilege granted by a license or permit issued under this chapter.

If any person refuses to obey a subpoena issued by the board under this section, the board may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof.

STATEMENT OF FACT

The purpose of this bill is reflected in the title.