

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-17)

COMMITTEE AMENDMENT " A" to H.P. 108, L.D. 139, Bill, "AN ACT Relating to the Definition and Licensing of Applications under the Pesticide Control Law."

Amend the Bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 22 MRSA §1471-C, sub-§5, as amended by PL 1975, c. 644, §2, is repealed and the following enacted in its place:

5. Commercial applicator. "Commercial applicator" means any person, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property.'

Further amend the Bill by adding at the end, before the statement of fact, the following:

'Sec. 4. 22 MRSA §1471-E, first and 3rd sentences, as enacted by PL 1975, c. 397, §2, are amended to read:

No person shall, for the purpose of controlling aquatic pests, apply pesticides to or in any river or stream or tributary thereof, or any great pond, without a permit from the board.

If, on the basis of the application for the permit, the board finds that the proposed application of pesticides will conform to applicable laws and regulations and is unlikely to adversely affect any plant or animal life, other than that sought to be

controlled, exert a significant adverse impact on nontarget species
it may grant the permit.'

Statement of Fact

The purposes of this amendment are:

1. Section 1. The current statute restricts the definition of "private applicator" to those involved in production of agricultural commodities. The amendment provides that the "commercial" category will include those individuals who will use restricted chemicals other than in the production of agricultural items, and who will use general-use chemicals if that use is part of a custom application. Persons who wish to use general-use chemicals on their own property for nonagricultural purposes can do so without being certified otherwise, one would have to be certified to use chemicals such as D-Con, mothballs and fly dope.

2. Addition of section 4. The current statute was intended to apply to the purposeful application of pesticides to water areas for the control of aquatic pests, and it has been a very useful provision. However, there have been attempts to stretch the intent of the law to include such things as unintended drift from pesticide applications. If this interpretation were accepted, nearly every pesticide application in the State would require an aquatic permit, since there would be a chance, however remote, of pesticides reaching water. Also, the current wording states that the board may grant an aquatic application permit only if it finds that the application is unlikely to adversely affect

any plant or animal life other than that sought to be controlled. This is an unrealistic provision. For instance, if a fish and game agency wishes to treat a pond with rotenone to kill undesirable fish so that the pond can then be stocked with trout, it does so realizing that some aquatic insects, tadpoles, etc. will die as a result of the treatment; it also realizes that these life forms will rapidly recolonize the pond as soon as it detoxifies, so that no significant adverse impact has been visited upon the nontarget species involved. The suggested change in wording allows the board to consider the extent and magnitude of any ecological disruptions which may occur due to an aquatic pesticide treatment, and to weigh that quantitative factor in deciding whether or not to grant a permit.

Reported by the Committee on Agriculture.

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