

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1469

S.P. 487 In Senate, May 8, 1987  
Submitted by the Department of Agriculture, Food and Rural  
Resources pursuant to Joint Rule 24.

Reference to the Committee on Agriculture suggested and  
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator BLACK of Cumberland.

Cosponsored by Senator TUTTLE of York, Representative  
NUTTING of Leeds, Representative BRAGG of Sidney.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Clarify Licensing Definitions under  
2 the Laws Related to the Board of  
3 Pesticides Control.  
4

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

7 Sec. 1. 22 MRSA §1471-C, sub-§5, as amended by  
8 PL 1981, c. 374, §1, is further amended to read:

9 5. Commercial applicator. "Commercial applica-  
10 tor" means any person, except a government pesticide  
11 supervisor, whether or not the person is a private  
12 applicator with respect to some uses, who uses or  
13 supervises the use of any limited or restricted-use  
14 pesticides on any property other than as provided by  
15 subsection 22, or who uses general-use pesticides in  
16 custom application on such property. "Commercial ap-

1 plicator" also includes individuals who apply any  
2 pesticides in connection with their duties as offi-  
3 cials or employees of federal, state or local govern-  
4 ments. The board may by rule provide for exemptions  
5 from licensing requirements and for reduced licensing  
6 requirements for classes of commercial applicators of  
7 general-use pesticides applied by hand or nonpowered  
8 equipment, provided that the board finds that appli-  
9 cations by those classes do not pose a significant  
10 risk to health or the environment and the requirement  
11 of licensing does not serve a meaningful public pur-  
12 pose.

13 Sec. 2. 22 MRSA §1471-C, sub-§5-A, as enacted by  
14 PL 1977, c. 20, §2, is amended to read:

15 5-A. Custom application. "Custom application"  
16 means any application of any pesticide ~~for-hire~~ under  
17 contract or for which compensation is received or any  
18 application of a pesticide to a property open to use  
19 by the public.

20 Sec. 3. 22 MRSA §1471-C, sub-§24, as enacted by  
21 PL 1975, c. 397, §2, is amended to read:

22 24. Under the direct supervision of a certified  
23 applicator. "Under the direct supervision of a cer-  
24 tified applicator," unless otherwise prescribed by  
25 its labeling, means the act or process by which a  
26 pesticide is applied by a competent person acting un-  
27 der the instructions and control of a certified ap-  
28 plicator who is available, if and when needed, even  
29 though such certified applicator is not physically  
30 present at the time and place the pesticide is ap-  
31 plied. In the case of an application made by a com-  
32 mercial applicator, the certified applicator must be  
33 physically present at the time and on the site of the  
34 application.

35 STATEMENT OF FACT

36 State pesticide laws require commercial applica-  
37 tors to be licensed and each application must be made  
38 under the direct supervision of a certified applica-  
39 tor. The board has recently identified 3 problem ar-  
40 eas that this bill is designed to correct.

1           The board currently has no provision to allow it  
2 to exempt certain classes of applicators from its li-  
3 censing and recertification requirements. As these  
4 requirements have become more stringent over the past  
5 5 years, there has been a growing recognition that  
6 there may be classes of applications that are so rou-  
7 tine and straight forward that there is no public  
8 benefit to be gained by having the applicators meet  
9 all of the requirements deemed necessary for those  
10 persons who make volume applications or use more tox-  
11 ic materials in a manner that could result in high  
12 exposure to humans, pets and livestock. Examples of  
13 classes that might be considered for less stringent  
14 licensing include persons using aerosol formulations  
15 of disinfectants in institutions, premixed herbicides  
16 painted onto stumps of recently cut brush and dry  
17 formulations of weed and feed fertilizer applied to  
18 turf by mechanical spreader.

19           The principal purpose of section 2 is to clarify  
20 the definition of "for hire." Traditionally, it has  
21 only referred to people who make a business of hiring  
22 out to apply pesticides to another person's property.  
23 There are, however, many other people who apply pes-  
24 ticides in areas open to the public and this bill re-  
25 quires that they also be trained and licensed.

26           The current definition of "under the direct su-  
27 pervision of a certified applicator" does not require  
28 the physical presence of a licensed applicator at the  
29 site at the time of application. Instead, the li-  
30 censee may be in a district office 100 or more miles  
31 from the site. In light of increased public concerns  
32 about pesticide use, there is a national effort un-  
33 derway to modernize laws to ensure that a trained and  
34 licensed person be present when commercial applica-  
35 tions are made. This bill affects private applica-  
36 tors who are still allowed to have an unlicensed per-  
37 son apply pesticides to their agricultural lands.

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