

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 179

H.P. 135

House of Representatives, February 14, 1989

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

Cosponsored by Senator ERWIN of Oxford and Representative HUSSEY of Milo.

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STATE OF MAINE

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

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An Act Concerning the Regulation of General Use Pesticides.

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1           **Emergency preamble.** Whereas, Acts of the Legislature do not  
3 become effective until 90 days after adjournment unless enacted  
as emergencies; and

5           Whereas, stores that sell pesticides, including garden and  
7 lawn chemicals, need to know before spring which inventories they  
need to monitor; and

9           Whereas, in the judgment of the Legislature, these facts  
11 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
13 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

17           **Sec. 1. 22 MRSA §1471-U**, as enacted by PL 1987, c. 702, §6  
19 and c. 723, §§4 and 6, is repealed and the following enacted in  
its place:

21 **§1471-U. Municipal ordinances**

23           1. Centralized listing. The Board of Pesticides Control  
25 shall maintain for informational purposes, for the entire State,  
a centralized listing of municipal ordinances that specifically  
27 apply to pesticide storage, distribution or use.

29           2. Existing ordinances. The clerk of any municipality  
which, on the effective date of this section, has an ordinance to  
31 be listed under subsection 1 shall file a copy of that ordinance  
with the board by December 31, 1988.

33           3. New ordinances. The clerk of the municipality shall  
35 provide the board with notice and a copy of any ordinance to be  
listed under subsection 1 at least 7 days prior to the meeting of  
37 the legislative body or the public hearing at which adoption of  
the ordinance will be considered. The clerk shall notify the  
39 board within 30 days after adoption of the ordinance.

41           4. Intent. It is the intent of this section to provide  
information on municipal ordinances. This section shall not  
43 affect municipal authority to enact ordinances.

45           5. Failure to file. For any ordinance which is not filed  
with the board, with notice given to the board in accordance with  
47 this section, which is otherwise valid under the laws of this  
State, any provision that specifically applies to storage,  
49 distribution or use of pesticides shall be considered void and of  
no effect after the deadline for filing and until the board is  
51 given proper notice and the ordinance is filed with the board.

**Sec. 2. 22 MRSA §1471-W** is enacted to read:

1  
3 §1471-W. General use pesticide dealers

5 1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

7 2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. Any person licensed to distribute restricted use pesticides shall be considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section shall be deposited in the Board of Pesticides Control Special Fund.

15 3. Records; reporting. Any person licensed to distribute general use pesticides shall keep and maintain records of annual pesticide sales for those pesticides specified in this subsection only and make the records available annually to the board. Those records shall include the name of the pesticide, the concentration of active ingredients and the quantity sold, and shall be kept on a calendar year basis. The records shall be kept for 2 years after the end of the calendar year. The board may not require record keeping on the sale of household use pesticide products. The total volume of only the following general use pesticides sold shall be submitted annually to the board:

27  
29 A. Sevin (Carbaryl);

31 B. 2,4D;

33 C. Diazinone;

35 D. Malathion; and

37 E. Any combination of general use pesticides included in paragraphs A to D.

39  
41 4. Violations; penalty. Any person required to be licensed under subsection 1 who sells general use pesticides without a license commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. Any person who fails to keep or maintain required records of general use pesticide sales commits a civil violation for which a forfeiture not to exceed \$250 may be adjudged.

47  
49 5. Exemptions. The following situations are exempt from the provisions of this section.

51 A. Any person may distribute the following products without a general use pesticide dealer license:

- 1                   (1) Household use pesticide products with no more than  
3                   3% active ingredients;
  
- 5                   (2) The following products, which have limited  
7                   percentages of active ingredients:
  - 9                   (a) Dichlorovos (DDVP) impregnated strips with  
11                   concentrations not more than 25% in resin strips  
13                   and pet collars;
  
  - 15                   (3) The following products with unlimited percentages  
17                   of active ingredients:
    - 19                   (a) Pet supplies such as shampoos, tick and flea  
21                   collars and dusts;
  
    - 23                   (b) Disinfectants, germicides, bactericides and  
25                   virucides;
  
    - 27                   (c) Insect repellents;
  
    - 29                   (d) Indoor and outdoor animal repellents;
  
    - 31                   (e) Moth flakes, crystals, cakes and nuggets;
  
    - 33                   (f) Indoor aquarium supplies;
  
    - 35                   (g) Swimming pool supplies; and
  
    - 37                   (h) Pediculocides and mange cure on man.

39                   B. The board may promulgate rules to exempt the sale of  
41                   additional general use pesticide products from the dealer  
43                   licensing provisions of this section.

45                   **Emergency clause.** In view of the emergency cited in the  
47                   preamble, this Act shall take effect when approved.

49                   **STATEMENT OF FACT**

51                   Section 1 of this bill resolves a conflict created by 2  
53                   public laws enacting the same section number. Section 2 of the  
55                   bill amends the Public Law 1987, chapter 723 version by requiring  
57                   persons who are licensed to distribute general use pesticides to  
59                   submit annual reports to the Board of Pesticides Control  
61                   regarding their sales of general use pesticides. Licensed  
63                   distributors must include the total volume sold of Sevin  
65                   (Carbaryl), 2,4D, Diazinone, Malathion or any combination,  
67                   including these active ingredients in their report to the board.