

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

Date: 3/16/10

Report A

AGRICULTURE, CONSERVATION AND FORESTRY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1089, L.D. 1547, Bill, "An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment"

Amend the bill in the emergency preamble by striking out all of the 3rd indented paragraph (page 1, lines 5 and 6 in L.D.) and inserting the following:

'Whereas, revisions are needed to increase awareness of and compliance with registry provisions in the laws governing pesticides applications; and'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 22 MRSA §1471-Y, as enacted by PL 2009, c. 378, §1, is repealed.

Sec. 2. 22 MRSA §1471-Z, as enacted by PL 2009, c. 378, §2, is amended to read:

§1471-Z. Registry of property requiring notification for pesticides applications

The board shall develop and maintain a registry of the properties of residents, lessees and property owners in the State who request to that their properties be placed on a registry for the purpose of receiving information on in order that the residents, lessees and owners receive advance notification of the outdoor application of pesticides using aircraft or air carrier equipment in addition to the information required under section 1471-Y.

1. **Development of registry.** The board shall solicit participation in a the registry of citizens through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. ~~To~~ For a property to be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, the following information:

A. The person's full name;

B. The person's telephone number;

1 C. ~~The physical location of the property owned, leased or occupied by the person~~  
2 ~~registering being registered, including the street address if available. The location~~  
3 ~~must be described. If a street address is not available, longitude and latitude~~  
4 ~~coordinates or a description of the property in sufficient detail to be located on a 7.5~~  
5 ~~or 15 minute series topographical map produced by the United States Geological~~  
6 ~~Survey or a map of equivalent or superior detail must be provided;~~

7 D. The person's mailing address at which the person prefers to receive notification;  
8 and

9 E. The person's e-mail address, if available, regularly used and acceptable for  
10 notification purposes; and

11 F. The person's preferred means of notification.

12 Any resident, owner or lessee of property in the State is entitled to ~~be~~ have that property  
13 placed on the registry of citizens. A fee may not be charged to register. Persons Property  
14 must remain on the registry until they notify the resident, owner or lessee notifies the  
15 board in writing that they want the property is to be removed from the registry or until the  
16 board staff determines that the contact is no longer valid.

17 **2. Obligations to provide information to people on registry.** A land manager  
18 intending to conduct an outdoor application of pesticides using aircraft or air-carrier  
19 equipment shall access the registry to identify any person entitled to notification under  
20 subsection 3 and, except as provided in subsections 5, 6 and 7, shall provide that person  
21 with notification no later than the day before and no earlier than 7 days before the day of  
22 the application. The notification must include:

23 A. The date and approximate time of application;

24 B. The type of equipment to be used and the manner in which the pesticides will be  
25 applied;

26 C. The brand names and the United States Environmental Protection Agency's  
27 registration numbers for the pesticides to be used; and

28 D. Contact information for the land manager.

29 Upon the request of a person receiving notification under this subsection, a land manager  
30 shall provide the material safety data sheets for the pesticides being used or copies of the  
31 pesticides labels. A land manager is not required to postpone an application pending  
32 delivery of the requested information.

33 **3. Criteria requiring notification.** A land manager is required to notify a person  
34 whose property is on the registry if:

35 A. Pesticides are being applied using aircraft and the registered property lies within  
36 1,320 feet of the intended spray area;

37 B. Except as provided in paragraph C, pesticides are being applied using air-carrier  
38 equipment and the registered property lies within 1,320 feet of the intended spray  
39 area; or

1 C. Pesticides are being applied using air-carrier equipment into the crowns of fruit  
2 trees or Christmas trees and the registered property lies within 500 feet of the  
3 intended spray area.

4 **4. Means of notification.** A land manager conducting or contracting for a pesticides  
5 application using aircraft or air-carrier equipment shall make a good faith effort to convey  
6 the information required in subsection 2. Acceptable means of notification include:

7 A. Personal delivery of notification forms;

8 B. Mailing notification forms through the United States Postal Service;

9 C. Electronic mailing of notification forms;

10 D. Telephone calls, either personal or automated; or

11 E. Other means determined acceptable by the board.

12 **5. Delayed notification acceptable.** A land manager using integrated pest  
13 management, as defined in Title 7, section 2401, may provide the information required  
14 under subsection 2, paragraphs A to D on the day of the application but prior to the  
15 application when an immediate threat to a crop arises and a delay would:

16 A. Result in significantly greater crop damage; or

17 B. Necessitate a more extensive application of pesticides or use of more toxic  
18 pesticides.

19 A land manager providing delayed notification under this subsection shall inform the  
20 board no later than 10 days after the application of the circumstances necessitating the  
21 application and provide any other information required in rules adopted under subsection  
22 9.

23 **6. Waiver for public health emergencies and pest outbreaks that threaten severe**  
24 **economic or natural resource loss.** The board may waive notification requirements  
25 under subsection 2 in the event of a pest management emergency declared by the  
26 Governor or the commissioner, the Commissioner of Conservation or the Commissioner  
27 of Agriculture, Food and Rural Resources.

28 **7. Applicability.** The notification requirements under subsections 2 and 3 do not  
29 apply to:

30 A. Aerial pesticides applications subject to and conducted in compliance with section  
31 1471-R and rules adopted to implement section 1471-R; and

32 B. Outdoor nonagricultural pesticides applications conducted in compliance with  
33 notification requirements for individuals on the registry established in rules adopted  
34 under section 1471-M, subsection 2, paragraph D.

35 This subsection is repealed January 1, 2012.

36 **8. Records maintained.** The board shall require a land manager to maintain records  
37 sufficient to determine compliance with this section. The board shall establish record-  
38 keeping requirements through rulemaking under subsection 9.

39 **9. Rulemaking.** The board shall adopt rules to implement this section. The rules  
40 may provide additional means of identifying property registered under subsection 1 and

1 alternate means of providing notification under subsection 2. Notwithstanding Title 7,  
2 section 610, subsection 6, paragraph B, rules adopted or amended in 2010 to implement  
3 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
4 Beginning January 1, 2011, revisions to rules adopted under this subsection are major  
5 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **10. Definitions.** As used in this section, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Air-carrier equipment" means any application equipment that uses a  
9 mechanically generated airstream to propel spray droplets. "Air-carrier equipment"  
10 does not include backpack sprayers or air-assisted application equipment in which the  
11 airstream is directed downward into the target canopy.

12 B. "Land manager" means the owner of the land upon which pesticides are to be  
13 applied, a person leasing the land or a person, firm, company or other legal entity  
14 designated by the owner to manage the land, vegetation on the land or pests occurring  
15 on the land.

16 **Sec. 3. 22 MRSA §1471-AA is enacted to read:**

17 **§1471-AA. Awareness of outdoor pesticides applications; role of the board**

18 **1. Public awareness.** The board shall increase awareness of the registry established  
19 under section 1471-Z using newspapers, public notices distributed to municipal offices  
20 and notices posted on the board's publicly accessible website and through cooperative  
21 efforts with other state agencies and private organizations.

22 **2. Acceptance of funds.** The board may accept gifts, donations, grants and  
23 matching funds from any private or public source for the purposes of publicizing the  
24 registry under section 1471-Z, developing efficient mechanisms for land managers, as  
25 defined in that section, to access the registry and promoting compliance with that section.  
26 The board shall deposit all funds accepted for these purposes with the Treasurer of State  
27 to be credited to the board's special fund under Title 7, section 621. Any gift, donation,  
28 grant or matching funds accepted with a stipulated purpose may be used only for that  
29 purpose.

30 **Sec. 4. Awareness of registry for receiving pesticides application**  
31 **information.** Until July 1, 2010, the Department of Agriculture, Food and Rural  
32 Resources, State Board of Pesticides Control shall concentrate its efforts under the Maine  
33 Revised Statutes, Title 22, section 1471-AA to raise awareness of the registry under Title  
34 22, section 1471-Z and its purpose in areas of the State where pesticides applications  
35 using aircraft and air-carrier equipment occur and shall conduct outreach with land  
36 managers engaged in aerial and air-carrier applications to maximize understanding of and  
37 compliance with the requirements of Title 22, section 1471-Z, subsection 3. In June  
38 2010, the board shall update the registry, and the board shall make the updated registry  
39 available to land managers no later than July 1, 2010.

40 **Sec. 5. Directive to State Board of Pesticides Control to establish**  
41 **comprehensive notification registry.** The Department of Agriculture, Food and  
42 Rural Resources, State Board of Pesticides Control shall work to develop a  
43 comprehensive notification registry as a single source for accessing information on

1 registered properties and the notification of persons entitled to be notified under the  
 2 Maine Revised Statutes, Title 22, sections 1471-R and 1471-Z and under Chapter 28 and  
 3 Chapter 51 of the rules of the board.

4 The board may provisionally adopt major substantive rules under Title 22, section  
 5 1471-Z, subsection 9 that expand the requirement that land managers consult the  
 6 comprehensive notification registry before conducting pesticides applications using  
 7 aircraft or air-carrier equipment to include other types of outdoor applications and that  
 8 modify and incorporate into the comprehensive notification registry notification  
 9 requirements for persons currently entitled to notification of pesticides applications under  
 10 Chapter 28 or Chapter 51 of the rules of the board or otherwise entitled to notification.  
 11 The rules must specify distances from the intended application area within which a  
 12 person must be notified before application of pesticides based on the type of equipment  
 13 used and other criteria considered appropriate by the board. The board shall consider  
 14 options for efficiently notifying people with registered property and may establish  
 15 acceptable methods of notification in rule.

16 **Sec. 6. Report to legislative committee.** The Department of Agriculture, Food  
 17 and Rural Resources, State Board of Pesticides Control shall submit a report, including  
 18 suggested legislation, to the joint standing committee of the Legislature having  
 19 jurisdiction over agricultural matters no later than February 1, 2011 on:

20 1. Progress made in working towards a comprehensive notification registry for  
 21 persons who want to receive specific information about outdoor pesticides applications;  
 22 and

23 2. Recommendations regarding changes to the distances and types of applications  
 24 requiring notification under the Maine Revised Statutes, Title 22, section 1471-Z,  
 25 subsection 3.

26 **Sec. 7. Legislation authorized.** The joint standing committee of the Legislature  
 27 having jurisdiction over agricultural matters may submit a bill to the 125th Legislature  
 28 regarding the report under section 6.

29 **Sec. 8. Appropriations and allocations.** The following appropriations and  
 30 allocations are made.

31 **AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

32 **Pesticides Control - Board of 0287**

33 Initiative: Allocates one-time funds for a campaign to raise awareness about the  
 34 pesticides notification registry.

35	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
36	All Other	\$25,000	\$0
37			
38	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$25,000</b>	<b>\$0</b>
39			

**SUMMARY**

This amendment is the majority report of the Joint Standing Committee on Agriculture, Conservation and Forestry. It replaces the bill.

The amendment repeals the requirement for pre-season notification of the intent to apply pesticides using aircraft or air-carrier equipment.

The amendment directs the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control to develop a registry of property requiring notification for pesticides applications that can be used to notify people of pesticides applications in addition to aerial and air-carrier applications. The amendment directs the board to take certain actions to increase awareness of the registry and to accept donations and grants to promote awareness of the registry, to develop efficient mechanisms for accessing the registry and to promote compliance.

The amendment establishes requirements for land managers notifying persons on the registry, including maximum distances for applications using aircraft and air-carrier equipment, and specifies situations in which delayed notification is acceptable. The amendment provides that notification is not required for aerial pesticides applications to control forest pests and other applications covered under the Maine Revised Statutes, Title 22, section 1471-R when those applications are in compliance with the rules of the board or for nonagricultural pesticides applications when those applications are in compliance with rules in effect for the registry.

The amendment authorizes waivers of notification requirements when public health or natural resources are threatened.

The amendment directs the board to focus its awareness campaign and outreach efforts through June 2010 in areas of the State where pesticides are applied using aircraft or air-carrier equipment, authorizes the board to adopt certain rules as routine technical rules in 2010, directs the board to establish a comprehensive notification registry for persons who want information on outdoor pesticides applications and requires the board to report to the legislative committee of jurisdiction no later than February 1, 2011 regarding the comprehensive notification registry and notification requirements. The amendment directs the board to recommend legislation and authorizes the committee of jurisdiction to submit a bill to the 125th Legislature regarding the comprehensive notification registry and notification requirements.

The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

**(See attached)**



# 124th MAINE LEGISLATURE

LD 1547

LR 2067(02)

## An Act To Revise Notification Requirements for Pesticides Applications Using Aircraft or Air-carrier Equipment

Fiscal Note for Bill as Amended by Committee Amendment "A"  
 Committee: Agriculture, Conservation and Forestry  
 Fiscal Note Required: Yes

### Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$25,000	\$0	\$0	\$0

#### Fiscal Detail and Notes

The bill includes a one-time Other Special Revenue Funds allocation to the Department of Agriculture, Food and Rural Resources of \$25,000 in fiscal year 2009-10 for a campaign to raise awareness of the Maine Pesticide Notification Registry. Funds exist within this account to cover these costs.