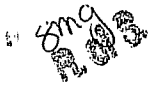


MAINE STATE LEGISLATURE

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Report C

AGRICULTURE, CONSERVATION AND FORESTRY

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

COMMITTEE AMENDMENT "C" 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 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 amended to read:

§1471-Y. Preseason notification of the intent to conduct outdoor pesticides application using aircraft or air-carrier equipment

A land manager may not apply pesticides using aircraft or air-carrier equipment unless the preseason notification requirements of this section are met.

1. Definitions. As used in this section and section 1471-Z, unless the context otherwise indicates, the following terms have the following meanings.

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

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

~~C. "Neighbor" means an owner, lessee or occupant of a property that abuts or lies within 1,320 feet of an area.~~

D. "Areas likely to be occupied" means areas where humans are likely to be present, including residential buildings, school buildings, campgrounds and commercial, institutional or other structures.

COMMITTEE AMENDMENT

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2. Preseason notification. A Except as provided in subsection 6, a land manager intending to conduct application of pesticides using aircraft or air-carrier equipment shall provide written notification to residents and managers of buildings on abutting property make a good faith effort to notify residents and managers of areas likely to be occupied that lie with 1,320 feet of the intended spray area. Notification must be sent at least 90 14 days prior to the first date of pesticides application. The notification must be provided in accordance with subsection 5 and include:

- A. A general description of the method of application that is likely to occur;
- B. ~~The pesticides application schedule and circumstances under which the application is likely to take place;~~
- B-1. An approximate schedule of when pesticides applications generally occur;
- C. ~~The commercial and scientific names~~ types of pesticides likely to be applied; and
- D. Reference to the registry of citizens developed and maintained by the board under section 1471-Z and a description of how to be placed on the registry.

Notification in compliance with this subsection ~~fulfils~~ fulfills the notification requirement for 3 years ~~unless the information provided under paragraph A, B or C changes.~~

3. ~~Obligations to provide information.~~ ~~A land manager intending to conduct an outdoor application of pesticides using aircraft or air-carrier equipment shall access the registry of citizens under section 1471-Z to determine any neighbors on the registry of citizens and shall provide those neighbors with notification in accordance with subsection 5 and at least 24 hours but not more than 7 days in advance of the application of:~~

- ~~A. The date and approximate time of application;~~
- ~~B. The type of equipment to be used and the manner in which the pesticides will be applied;~~
- ~~C. The commercial and scientific names and the United States Environmental Protection Agency's registration numbers for the pesticides to be used and, upon request, the material safety data sheets for the pesticides or copies of pesticides labels; and~~
- ~~D. Contact information for the land manager.~~

4. Records maintained. A land manager shall maintain records of ~~communications with neighbors regarding an outdoor application of pesticides using aircraft or air-carrier equipment and the dates and means by which the notification required under subsection 2 was provided. The board shall supply forms for recording this information and the land manager shall use these forms. A land manager shall maintain a list of people receiving notification under subsection 2 or information under subsection 3 who ask not to be contacted in the future. A land manager may refrain from sending future notifications to these individuals. The board shall establish record-keeping requirements sufficient to determine compliance with this section.~~

5. Means of notification. A land manager conducting or contracting for a pesticides application using aircraft or air-carrier equipment shall make a good faith effort to convey

1 the information required in subsections subsection 2 and 3. Acceptable means of
2 notification include:

- 3 A. Personal delivery of notification forms;
- 4 B. Mailing notification forms through the United States Postal Service; or
- 5 C. Electronic mailing of notification forms.

6 ~~Telephone calls, either personal or automated, are an acceptable means of notification~~
7 ~~under subsection 3.~~

8 **6. Authority to modify or waive preseason notification requirements.** The board
9 may modify or waive the notification requirements under subsection 2 when the
10 Governor or the commissioner, the Commissioner of Conservation or the Commissioner
11 of Agriculture, Food and Rural Resources declares an emergency necessitating pesticides
12 application using aircraft or air-carrier equipment to protect the public health or avert
13 severe economic or natural resource loss.

14 **7. Rulemaking.** The board shall adopt rules to implement this section. The board
15 may define in rule "areas likely to be occupied" to clarify who must receive preseason
16 notification under subsection 2. Notwithstanding Title 7, section 610, subsection 6,
17 paragraph B, rules adopted or amended in 2010 to implement this section are routine
18 technical rules as defined in Title 5, chapter 375, subchapter 2-A. Beginning January 1,
19 2011, revisions to rules adopted under this section are major substantive rules as defined
20 in Title 5, chapter 375, subchapter 2-A.

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

23 **§1471-Z. Registry of property requiring notification for pesticides applications**

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

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

- 35 A. The person's full name;
- 36 B. The person's telephone number;
- 37 C. The physical location of the property owned, leased or occupied by the person
38 registering being registered, including the street address if available. The location
39 must be described If a street address is not available, longitude and latitude
40 coordinates or a description of the property in sufficient detail to be located on a 7.5

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- 1 or 15 minute series topographical map ~~produced by the United States Geological~~
- 2 ~~Survey or a map of equivalent or superior detail~~ must be provided;
- 3 D. The person's mailing address at which the person prefers to receive notification;
- 4 and
- 5 E. The person's e-mail address, if available, regularly used and acceptable for
- 6 notification purposes; and
- 7 F. The person's preferred means of notification.

8 Any resident, owner or lessee of property in the State is entitled to ~~be~~ have that property

9 placed on the registry of citizens. A fee may not be charged to register. ~~Persons Property~~

10 must remain on the registry until they notify the resident, owner or lessee notifies the

11 board in writing that ~~they want the property is~~ to be removed from the registry or until the

12 board staff determines that the contact is no longer valid.

13 **2. Obligations to provide information to people on registry.** A land manager

14 intending to conduct an outdoor application of pesticides using aircraft or air-carrier

15 equipment shall access the registry to identify any person entitled to notification under

16 subsection 3 and, except as provided in subsection 5, shall provide that person with

17 notification no later than the day before and no earlier than 7 days before the day of the

18 application. The notification must include:

- 19 A. The date and approximate time of application;
- 20 B. The type of equipment to be used and the manner in which the pesticides will be
- 21 applied;
- 22 C. The brand names and the United States Environmental Protection Agency's
- 23 registration numbers for the pesticides to be used; and
- 24 D. Contact information for the land manager.

25 Upon the request of a person receiving notification under this subsection, a land manager

26 shall provide the material safety data sheets for the pesticides being used or copies of the

27 pesticides labels. A land manager is not required to postpone an application pending

28 delivery of the requested information.

29 **3. Criteria requiring notification.** A land manager shall notify a person whose

30 property is on the registry if pesticides are being applied using aircraft or air-carrier

31 equipment and the registered property lies within 1,320 feet of the intended spray area.

32 **4. Means of notification.** A land manager conducting or contracting for a pesticides

33 application using aircraft or air-carrier equipment shall make a good faith effort to convey

34 the information required in subsection 2. Acceptable means of notification include:

- 35 A. Personal delivery of notification forms;
- 36 B. Mailing notification forms through the United States Postal Service;
- 37 C. Electronic mailing of notification forms;
- 38 D. Telephone calls, either personal or automated; or
- 39 E. Other means determined acceptable by the board.

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

6 **6. Records maintained.** The board shall require a land manager to maintain records
7 sufficient to determine compliance with this section. The board shall establish record-
8 keeping requirements through rulemaking under subsection 7.

9 **7. Rulemaking.** The board shall adopt rules to implement this section. The rules
10 may provide additional means of identifying property registered under subsection 1 and
11 alternate means of providing notification under subsection 2. Notwithstanding Title 7,
12 section 610, subsection 6, paragraph B, rules adopted or amended in 2010 to implement
13 this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
14 Beginning January 1, 2011, revisions to rules adopted under this subsection are major
15 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

16 **Sec. 3. Compliance with preseason notification requirement for initial 3**
17 **years, 2010-2012.** Notwithstanding the Maine Revised Statutes, Title 22, section
18 1471-Y, subsection 2, a land manager required to comply with the notification
19 requirements under that subsection has 3 years from the effective date of this Act to
20 notify all residents and managers entitled to notification under that subsection.

21 **Sec. 4. Directive to State Board of Pesticides Control to establish**
22 **comprehensive notification registry.** The Department of Agriculture, Food and
23 Rural Resources, State Board of Pesticides Control shall work to develop a
24 comprehensive notification registry as a single source for accessing information on
25 registered properties and the notification of persons entitled to be notified under the
26 Maine Revised Statutes, Title 22, sections 1471-R and 1471-Z and under Chapter 28 and
27 Chapter 51 of the rules of the board.

28 The board may provisionally adopt major substantive rules under Title 22, section
29 1471-Z, subsection 7 that expand the requirement that land managers consult the
30 comprehensive notification registry before conducting pesticides applications using
31 aircraft or air-carrier equipment to include other types of outdoor applications and that
32 modify and incorporate into the comprehensive notification registry notification
33 requirements for persons currently entitled to notification of pesticides applications under
34 Chapter 28 or Chapter 51 of the rules of the board or otherwise entitled to notification.
35 The rules must specify distances from the intended application area within which a
36 person must be notified before application of pesticides based on the type of equipment
37 used and other criteria considered appropriate by the board. The board shall consider
38 options for efficiently notifying people with registered property and may establish
39 acceptable methods of notification in rule.

40 **Sec. 5. Report to legislative committee.** The Department of Agriculture, Food
41 and Rural Resources, State Board of Pesticides Control shall submit a report, including
42 suggested legislation, to the joint standing committee of the Legislature having
43 jurisdiction over agricultural matters no later than February 1, 2011 on:

P. 015

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

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

7 **Sec. 6. Legislation authorized.** The joint standing committee of the Legislature
8 having jurisdiction over agricultural matters may submit a bill to the 125th Legislature
9 regarding the report under section 5.

10 **SUMMARY**

11 This amendment is a minority report of the Joint Standing Committee on Agriculture,
12 Conservation and Forestry. It replaces the bill and makes revisions to the preseason
13 notification requirements enacted under Public Law 2009, chapter 378. It includes a
14 definition for "areas likely to be occupied" and specifies that preseason notification need
15 be sent only to residents and managers of areas likely to be occupied that lie within 1,320
16 of an intended spray area. It requires the preseason notification to be sent a minimum of
17 14 days prior to the first application and allows the Department of Agriculture, Food and
18 Rural Resources, Board of Pesticides Control to modify or waive the preseason
19 notification requirements when there is a declared emergency. It directs the board to
20 establish record-keeping requirements sufficient to determine compliance. It allows a
21 land manager 3 years to initially notify all residents and managers entitled to preseason
22 notification.

23 The amendment directs the board to develop a registry of property requiring
24 notification for pesticides applications that can be used to notify people of pesticides
25 applications in addition to aerial and air-carrier applications. The amendment establishes
26 requirements for land managers notifying persons on the registry, including the maximum
27 distance for applications using aircraft and air-carrier equipment.

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

30 The amendment authorizes the board to adopt certain rules as routine technical rules
31 in 2010, directs the board to establish a comprehensive notification registry for persons
32 who want information on outdoor pesticides applications and requires the board to report
33 to the legislative committee of jurisdiction no later than February 1, 2011 regarding the
34 comprehensive notification registry and notification requirements. The amendment
35 directs the board to recommend legislation and authorizes the committee of jurisdiction to
36 submit a bill to the 125th Legislature regarding the comprehensive notification registry
37 and notification requirements.

38 **FISCAL NOTE REQUIRED**
39 **(See attached)**



124th MAINE LEGISLATURE

LD 1547

LR 2067(04)

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

Fiscal Note for Bill as Amended by Committee Amendment "C"

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Department of Agriculture, Food and Rural Resources associated with the provisions of this legislation can be absorbed within existing budgeted resources.