

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 817

S.P. 291

In Senate, March 10, 2015

An Act Regarding Aerial Pesticide Spray Projects

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Representative NOON of Sanford and
Senator: DILL of Penobscot, Representatives: BLACK of Wilton, EDGECOMB of Fort
Fairfield.

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

2 **Sec. 1. 22 MRSA §1444, sub-§2**, as enacted by PL 1997, c. 215, §1, is amended
3 to read:

4 **2. Aerial spraying.** When the infestation causing a public health nuisance may be
5 controlled by the aerial spraying of pesticides, the municipal officers in the affected
6 municipality may conduct aerial spraying subject to rules adopted by the Board of
7 Pesticides Control, pursuant to Title 7, section 610 and Title 22, section 1471-R,
8 ~~subsection 3, paragraph C 1471-M~~, except that:

9 A. The municipality ~~rather than the applicator~~ is responsible for compliance with the
10 notification and consent regulations;

11 B. Landowners who are sent written notification by mail, sent to the landowner's last
12 known address as contained in the municipal assessing records and who fail to
13 respond to the notice within 30 days are deemed to have consented to aerial spraying;

14 C. A landowner's written consent to spray remains valid unless the municipal
15 officers are notified in writing at least 90 days before spraying is to occur that:

16 (1) The landowner withdraws consent; or

17 (2) Ownership of the property has been transferred and the notice contains the
18 name and mailing address of the new owner;

19 ~~D. Any such notice sent or consent received in calendar year 1997 prior to the~~
20 ~~effective date of this chapter constitutes adequate notice or consent under the law;~~

21 E. Written notice to the landowners must identify the chemicals to be used in the
22 aerial spraying; and

23 F. Public notice of the date of the aerial spraying, subject to change because of
24 weather conditions, must be given 24 hours prior to the spraying.

25 **Sec. 2. 22 MRSA §1471-C, sub-§5**, as amended by PL 2007, c. 245, §1, is
26 further amended to read:

27 **5. Commercial applicator.** "Commercial applicator" means any person, ~~except a~~
28 ~~government pesticide supervisor~~, whether or not the person is a private applicator with
29 respect to some uses, who uses or supervises the use of any limited or restricted-use
30 pesticides on any property other than as provided by subsection 22, or who uses general-
31 use pesticides in custom application on such property. "Commercial applicator" also
32 includes individuals who apply any pesticides in connection with their duties as officials
33 or employees of federal, state or local governments.

34 **Sec. 3. 22 MRSA §1471-C, sub-§11-A**, as enacted by PL 1981, c. 374, §2, is
35 repealed.

36 **Sec. 4. 22 MRSA §1471-C, sub-§§16-C, 23-A and 23-C**, as enacted by PL
37 1983, c. 819, Pt. A, §41, are repealed.

1 **Sec. 5. 22 MRSA §1471-D, sub-§2-A**, as enacted by PL 1981, c. 374, §3, is
2 repealed.

3 **Sec. 6. 22 MRSA §1471-D, sub-§2-B**, as enacted by PL 1983, c. 819, Pt. A, §43,
4 is repealed.

5 **Sec. 7. 22 MRSA §1471-D, sub-§5**, as amended by PL 1983, c. 819, Pt. A, §45,
6 is further amended to read:

7 **5. Issuance.** ~~No~~ A license or certification may not be issued by the board, unless the
8 board determines that the standards for licensing and certification have been met as to
9 those categories for which the applicant has applied and qualified. ~~In the case of the~~
10 ~~spotter and monitor, the board shall set minimal proficiency requirements with the~~
11 ~~understanding that the board may choose to change these standards from time to time.~~
12 ~~The enforcement personnel of the Board of Pesticides Control shall be certified to meet at~~
13 ~~least the minimal proficiency requirements required of spotters and monitors.~~ If a license
14 or certification is not issued as applied for, the board shall provide written notice to the
15 applicant of the reasons therefor. The license or certificate may be issued upon such
16 terms and conditions as the board ~~deems~~ considers necessary for the protection of the
17 public health, safety and welfare, and for enforcement and administration of this chapter
18 and the rules ~~promulgated~~ adopted pursuant to this chapter.

19 **Sec. 8. 22 MRSA §1471-D, sub-§6**, as amended by PL 1997, c. 454, §8, is
20 further amended to read:

21 **6. Renewal.** Licenses for commercial applicators, ~~government pesticide supervisors,~~
22 ~~spotters, monitors,~~ spray contracting firms, pesticide dealers and private applicators are
23 valid for such period as prescribed by the board by rule. Application for renewal must be
24 accompanied by such reasonable fee as the board may by rule require. The board may, by
25 rule, require that such renewal application include reexamination or other procedures
26 designed to assure a continuing level of competence to distribute, use or supervise the use
27 of pesticides safely and properly.

28 If the board fails to renew a license upon application of the licensee or certificate holder,
29 it shall afford the licensee or certificate holder an opportunity for a hearing in conformity
30 with Title 5, chapter 375, subchapter ~~IV~~ 4.

31 **Sec. 9. 22 MRSA §1471-M, sub-§1, ¶A**, as amended by PL 1981, c. 374, §8, is
32 further amended to read:

33 A. Establish categories, and where applicable subcategories, of commercial pesticide
34 applicators ~~and government pesticide supervisors~~ depending upon the nature and
35 extent of the pesticide use, the type of pesticide equipment, the degree of knowledge
36 or skill required in their application and such other factors as the board ~~deems~~
37 considers relevant, ~~provided that as long as~~ such categories ~~shall be~~ are consistent
38 with, but not limited to, the categories established by the United States
39 Environmental Protection Agency;

40 **Sec. 10. 22 MRSA §1471-M, sub-§1, ¶E**, as amended by PL 1983, c. 819, Pt. A,
41 §52, is further amended to read:

1 E. Establish guidelines and requirements for reporting of information by commercial
2 applicators, pesticide dealers; and spray contracting firms ~~and monitors~~ to the board;
3 and

4 **Sec. 11. 22 MRSA §1471-M, sub-§1, ¶F**, as enacted by PL 1981, c. 374, §9, is
5 repealed.

6 **Sec. 12. 22 MRSA §1471-M, sub-§1, ¶G**, as enacted by PL 1983, c. 819, Pt. A,
7 §53, is repealed.

8 **Sec. 13. 22 MRSA §1471-R**, as enacted by PL 1983, c. 819, Pt. A, §54 and
9 amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is repealed.

10 **Sec. 14. 22 MRSA §§1471-S and 1471-T**, as enacted by PL 1983, c. 819, Pt. A,
11 §54, are repealed.

12 **SUMMARY**

13 This bill repeals notification and reporting provisions for forest insect aerial pesticide
14 spray projects. It eliminates provisions related to government pesticide supervisors,
15 spotters and monitors, including the certification, licensing and associated reporting
16 requirements. Other provisions governing notification and reporting requirements for
17 outdoor pesticide applications are contained in the Department of Agriculture,
18 Conservation and Forestry, Board of Pesticides Control rules.