

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 101

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H.P. 87

House of Representatives, January 15, 2019

### **An Act To Reestablish the Pesticide Notification Registry**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative PLUECKER of Warren.  
Cosponsored by Representatives: DENK of Kennebunk, GRAMLICH of Old Orchard Beach,  
HEPLER of Woolwich, INGWERSEN of Arundel, O'NEIL of Saco, PEBWORTH of Blue  
Hill, RECKITT of South Portland.

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

2 **Sec. 1. 22 MRSA §§1471-CC and 1471-DD** are enacted to read:

3 **§1471-CC. Registry of property requiring notification for pesticides applications**

4 The board shall develop and maintain a registry of the properties of residents, lessees  
5 and property owners in the State who request that their properties be placed on a registry  
6 in order that the residents, lessees and owners receive advance notification of the outdoor  
7 application of pesticides.

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
9 following terms have the following meanings.

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

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

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

24 A. The person's full name;

25 B. The person's telephone number;

26 C. The physical location of the property being registered, including the street address  
27 if available. If a street address is not available, longitude and latitude coordinates or a  
28 description of the property in sufficient detail to be located on a 7.5-minute or  
29 15-minute series topographical map must be provided;

30 D. The person's mailing address;

31 E. The person's e-mail address if available; and

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

33 Any resident, lessee or owner of property in the State is entitled to have that property  
34 placed on the registry. A fee may not be charged to register. Property must remain on the  
35 registry until the resident, lessee or owner notifies the board in writing that the property is  
36 to be removed from the registry or until the board staff determines that the contact is no  
37 longer valid.

1           **3. Obligations to provide information to people on registry.** A land manager  
2 intending to conduct an outdoor application of pesticides using aircraft or air-carrier  
3 equipment shall access the registry to identify any person entitled to notification under  
4 subsection 4 and, except as provided in subsections 6 and 7, shall provide that person  
5 with notification no later than the day before and no earlier than 7 days before the day of  
6 the application. The notification must include:

7           A. The date and approximate time of application;

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

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

12          D. Contact information for the land manager; and

13          E. The location of the property that the land manager intends to spray.

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

18          **4. Criteria requiring notification.** A land manager is required to notify a person  
19 whose property is on the registry if the pesticides are being applied using aircraft or air-  
20 carrier equipment and the registered property lies within 1,320 feet of the intended spray  
21 area.

22          **5. Means of notification.** A land manager conducting or contracting for a pesticides  
23 application using aircraft or air-carrier equipment shall make a good faith effort to convey  
24 the information required in subsection 3. Acceptable means of notification include:

25          A. Personal delivery of notification;

26          B. Mailing of notification through the United States Postal Service;

27          C. Electronic mailing of notification;

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

29          E. Other means determined acceptable by the board.

30          **6. Delayed notification acceptable.** A land manager using integrated pest  
31 management, as defined in Title 7, section 2401, may provide the information required  
32 under subsection 3, paragraphs A to D on the day of the application but prior to the  
33 application when an immediate threat to a crop arises and a delay would:

34          A. Result in significantly greater crop damage; or

35          B. Necessitate a more extensive application of pesticides or use of more toxic  
36 pesticides.

37 A land manager providing delayed notification under this subsection shall inform the  
38 board no later than 10 days after the application of the circumstances necessitating the

1 application and provide any other information required in rules adopted under subsection  
2 9.

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

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

11 **9. Rulemaking.** The board shall adopt rules to implement this section. The rules  
12 may provide additional means of identifying property registered under subsection 2 and  
13 alternate means of providing notification under subsection 3. Rules adopted under this  
14 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

15 **§1471-DD. Awareness of outdoor pesticides applications; role of the board**

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

20 **2. Acceptance of funds.** The board may accept gifts, donations, grants and  
21 matching funds from any private or public source for the purposes of administering the  
22 pesticides notification registry established under section 1471-CC. These funds may be  
23 used to publicize the registry, develop efficient mechanisms for land managers to access  
24 the registry and promote compliance. The board shall deposit all funds accepted for these  
25 purposes with the Treasurer of State to be credited to the board's special fund under Title  
26 7, section 621. Any gift, donation, grant or matching funds accepted with a stipulated  
27 purpose may be used only for that purpose.

28 **SUMMARY**

29 This bill reestablishes the law, which was repealed by Public Law 2011, chapter 332,  
30 governing the development and maintenance of a registry of the properties of residents,  
31 lessees and property owners who request that their properties be placed on a registry in  
32 order that they receive advance notification of the outdoor application of pesticides near  
33 their properties.