

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 2019

H.P. 1501

House of Representatives, March 9, 2022

**An Act To Require the Registration of Adjuvants in the State and
To Regulate the Distribution of Pesticides with Perfluoroalkyl and
Polyfluoroalkyl Substances**

Reported by Representative O'NEIL of Saco for the Joint Standing Committee on
Agriculture, Conservation and Forestry pursuant to Resolve 2021, chapter 83, section 2.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and
ordered printed pursuant to Joint Rule 218.

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

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 7 MRSA §604, sub-§22-A** is enacted to read:

3 **22-A. Perfluoroalkyl and polyfluoroalkyl substances or PFAS.** "Perfluoroalkyl
4 and polyfluoroalkyl substances" or "PFAS" means substances that include any member of
5 the class of fluorinated organic chemicals containing at least 2 fully fluorinated carbon
6 atoms.

7 **Sec. 2. 7 MRSA §604, sub-§25,** as amended by PL 2005, c. 620, §3, is repealed
8 and the following enacted in its place:

9 **25. Pesticide.** "Pesticide" means:

10 A. Any substance or mixture of substances intended for preventing, destroying,
11 repelling or mitigating any pests;

12 B. Any substance or mixture of substances intended for use as a plant regulator,
13 defoliant or desiccant; and

14 C. Any substance or mixture of substances intended to be used as a spray adjuvant.

15 **Sec. 3. 7 MRSA §604, sub-§31-A** is enacted to read:

16 **31-A. Spray adjuvant.** "Spray adjuvant" means an ingredient added to a pesticide
17 spray mixture to enhance the effectiveness of pesticide product ingredients or modify the
18 actions of those pesticide product ingredients.

19 **Sec. 4. 7 MRSA §606, sub-§1,** as amended by PL 2021, c. 105, §§1 to 3, is further
20 amended to read:

21 **1. Unlawful distribution.** A person may not distribute in the State any of the
22 following:

23 A. A pesticide that has not been registered pursuant to the provisions of this
24 subchapter;

25 B. A pesticide if any of the claims made for it or any of the directions for its use or
26 other labeling differs from the representations made in connection with its registration,
27 or if the composition of a pesticide differs from its composition as represented in
28 connection with its registration; a change in the labeling or formulation of a pesticide
29 may be made within a registration period without requiring reregistration of the product
30 if the registration is amended to reflect that change and if that change will not violate
31 any provision of FIFRA or this subchapter;

32 C. A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate
33 container and there is affixed to the container, and to the outside container or wrapper
34 of the retail package, if there is one, through which the required information on the
35 immediate container cannot be clearly read, a label bearing the information required in
36 this subchapter and rules adopted under this subchapter;

37 D. A pesticide that has not been colored or discolored pursuant to section 610,
38 subsection 1, paragraph D;

39 E. A pesticide that is adulterated or misbranded or any device that is misbranded;

40 F. A pesticide in containers that are unsafe due to damage; or

1 G. Beginning January 1, 2022, a pesticide containing chlorpyrifos as an active
2 ingredient;

3 H. A pesticide that has been contaminated by perfluoroalkyl and polyfluoroalkyl
4 substances; or

5 I. Notwithstanding Title 38, section 1614, subsection 5, paragraph D, beginning
6 January 1, 2030, a pesticide that contains intentionally added PFAS as defined in Title
7 38, section 1614, subsection 1, paragraph D.

8 **Sec. 5. 7 MRSA §606, sub-§2**, as amended by PL 2005, c. 620, §5, is further
9 amended to read:

10 **2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal**
11 **and noncompliance.** A person may not:

12 A. Detach, alter, deface or destroy, wholly or in part, any label or labeling provided
13 for in this subchapter or rules adopted under this subchapter;

14 A-1. Add any substance to or take any substance from a pesticide in a manner that may
15 defeat the purpose of this subchapter or rules adopted under this subchapter;

16 B. Use or cause to be used any pesticide in a manner inconsistent with its labeling or
17 with rules of the board, if those rules further restrict the uses provided on the labeling;

18 C. Use for that person's own advantage or reveal, other than to the board or proper
19 officials or employees of the state or federal executive agencies, to the courts of this
20 State or of the United States in response to a subpoena, to physicians, or in emergencies
21 to pharmacists and other qualified persons for use in the preparation of antidotes, any
22 information relative to formulas of products acquired by authority of section 607 or
23 any information judged by the board to contain or relate to trade secrets or commercial
24 or financial information obtained by authority of this subchapter and marked as
25 privileged or confidential by the registrant;

26 D. Handle, transport, store, display or distribute pesticides in such a manner as to
27 endanger human beings or their environment or to endanger food, feed or any other
28 products that may be transported, stored, displayed or distributed with such pesticides;

29 E. Dispose of, discard or store any pesticides or pesticide containers in such a manner
30 as may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial
31 insects or pollute any water supply or waterway;

32 F. Refuse or otherwise fail to comply with the provisions of this subchapter, the rules
33 adopted under this subchapter, or any lawful order of the board; ~~or~~

34 G. Apply pesticides in a manner inconsistent with rules for pesticide application
35 adopted by the board; or

36 H. Use or cause to be used any pesticide container inconsistent with rules for pesticide
37 containers adopted by the board.

38 **Sec. 6. Board of Pesticides Control; rules.** The Department of Agriculture,
39 Conservation and Forestry, Board of Pesticides Control shall adopt rules regulating
40 pesticide containers as authorized in the Maine Revised Statutes, Title 7, section 606,
41 subsection 2, paragraph H no later than January 1, 2023. Rules adopted pursuant to this
42 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1 **SUMMARY**

2 This bill is reported out by the Joint Standing Committee on Agriculture, Conservation
3 and Forestry pursuant to Resolve 2021, chapter 83. The committee is reporting the bill out
4 for the sole purpose of turning the proposal into a printed bill that can be referred to the
5 committee for an appropriate public hearing and subsequent processing in the normal
6 course. The committee has not taken a position on the substance of this bill and by
7 reporting this bill out the committee is not suggesting and does not intend to suggest that it
8 agrees or disagrees with any aspect of this bill.

9 The bill makes the following changes to the Maine Pesticide Control Act of 1975.

10 1. The bill adds "any substance or mixture of substances intended to be used as a spray
11 adjuvant" to the definition of "pesticide" and defines "spray adjuvant."

12 2. The bill defines "perfluoroalkyl and polyfluoroalkyl substances" and prohibits a
13 person from distributing a pesticide that has been contaminated by perfluoroalkyl and
14 polyfluoroalkyl substances. It prohibits a person from distributing a pesticide that contains
15 intentionally added perfluoroalkyl and polyfluoroalkyl substances beginning January 1,
16 2030. Current law defines "distribute" in the Maine Pesticide Control Act of 1975 as "to
17 offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and having so
18 received, deliver or offer to deliver pesticides in this State."

19 3. The bill also prohibits a person from using any pesticide container inconsistent with
20 rules for pesticide containers adopted by the Department of Agriculture, Conservation and
21 Forestry, Board of Pesticides Control.