

HOUSE BILL NO. 53

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KREISS-TOMKINS, ORTIZ, AND GARA, Josephson

Introduced: 1/21/15

Referred: Transportation, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the application of pesticides and broadcast chemicals in certain
2 public places near fish habitat or water used for human consumption and on state-
3 owned land, land leased by or to the state, state highways, and state-owned rights-of-
4 way."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 46.03.320(c) is amended to read:

7 (c) **Except as otherwise provided in this section, a** [A] person may not apply
8 a pesticide or broadcast chemical in a **common area of a building that contains**
9 **more than four single family dwellings or apartment building, to portions of a**
10 **government office or facility to which access is not normally restricted to**
11 **employees, or to plazas, parks, or public sports facilities** [PUBLIC PLACE] unless
12 licensed by the department or otherwise authorized under a regulation of the
13 department. The department shall by regulation provide for reasonable public
14 notification, including written notice posted on the application site, when pesticides

1 and broadcast chemicals are applied under this subsection [IN A PUBLIC PLACE.
2 IN THIS SUBSECTION, "PUBLIC PLACE" MEANS

3 (1) COMMON AREAS OF AN APARTMENT BUILDING OR
4 OTHER MULTI-FAMILY DWELLING;

5 (2) THAT PORTION OF A GOVERNMENT OFFICE OR
6 FACILITY TO WHICH ACCESS IS NOT ORDINARILY RESTRICTED TO
7 EMPLOYEES; AND

8 (3) PLAZAS, PARKS, AND PUBLIC SPORTS FIELDS.]

9 * **Sec. 2.** AS 46.03.320 is amended by adding new subsections to read:

10 (e) The state or a public agency under the jurisdiction of the state may not
11 apply, or direct to be applied, a pesticide or broadcast chemical on a state-owned right-
12 of-way, along a state highway, or on more than one acre of land owned or leased by or
13 to the state unless

14 (1) the requirements of (g) of this section have been met; and

15 (2) written notice has been posted in a conspicuous place or places on
16 the application site, including along the right-of-way, highway, and points of public
17 access, at the time of the application.

18 (f) The state or a public agency under the jurisdiction of the state may not
19 apply, or direct to be applied, a pesticide or broadcast chemical within 150 feet of an
20 anadromous or resident fish habitat or within 600 feet of a public or private water
21 source that is used for human consumption unless

22 (1) written notice has been posted in a conspicuous place or places on
23 the application site, including points of public access, for at least 14 days before the
24 commencement of the application;

25 (2) the department finds that the pesticide or broadcast chemical
26 application will not harm anadromous or resident fish or an anadromous or resident
27 fish habitat and will not harm a public or private water source that is used for human
28 consumption;

29 (3) the requirements of (g) of this section have been met; and

30 (4) the department has issued a license for the application.

31 (g) Before a pesticide may be applied under (e) or (f) of this section, the state

1 or a public agency under the jurisdiction of the state shall develop a pesticide
2 application plan and provide reasonable public notice of and an opportunity for public
3 comment on the pesticide application plan. The state or public agency shall provide a
4 copy of the pesticide application plan developed under this subsection to each local
5 governing body in the area of the pesticide or broadcast chemical application before
6 providing an opportunity for public comment. The state or public agency shall hold a
7 public hearing if a hearing is requested by a local governing body in the area of the
8 pesticide or broadcast chemical application. A hearing held under this subsection shall
9 be reasonably accessible to members of the public in the area of the pesticide or
10 broadcast chemical application. Upon termination of the period provided for public
11 comment and following the hearing, if requested, the pesticide application plan may
12 be revised, if appropriate, to reflect comments or other information that has come to
13 the attention of the state or public agency. A brief summary of the comments,
14 information, and responses to the pesticide application received shall be appended to
15 the revised plan. The state or public agency shall provide a revised plan to each local
16 governing body in the area where the pesticide or broadcast chemical will be applied.
17 An application of a pesticide or broadcast chemical is exempt from this subsection if
18 the department determines that there is an imminent danger to public health or an
19 emergency that threatens a natural resource of the state that may be prevented or
20 mitigated by the prompt application of a pesticide or broadcast chemical. The
21 department shall adopt regulations to carry out the purposes of this subsection. In this
22 subsection, "local governing body" means a

23 (1) municipality;

24 (2) village council;

25 (3) community council established by municipal charter or ordinance;

26 and

27 (4) nonprofit corporation representing an unincorporated community.

28 * **Sec. 3.** AS 46.03.320(d) is repealed.