

CS FOR SENATE BILL NO. 27(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/7/04

Referred: Resources, Finance

Sponsor(s): SENATORS ELLIS, Elton

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to pesticide use; relating to program receipts collected by the**
2 **Department of Environmental Conservation for registrations and licenses relating to**
3 **pesticides; and providing for an effective date."**

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

5 * **Section 1.** AS 37.05.146(c) is amended by adding a new paragraph to read:

6 (78) receipts of the Department of Environmental Conservation under
7 AS 44.46.025(e) and AS 46.03.320(b).

8 * **Sec. 2.** AS 44.46.025 is amended by adding a new subsection to read:

9 (e) The department may charge a registration fee of \$80 for a pesticide label
10 for a pesticide product registered for use in the state.

11 * **Sec. 3.** AS 46.03.320(b) is amended to read:

12 (b) The department may provide by regulation for the licensing of private
13 applicators of restricted-use pesticides and for persons engaged in the custom,
14 commercial, or contract spraying or application of pesticides and broadcast chemicals.

1 **The license must specify each category of use that is authorized for the person**
 2 **holding the license.** A person engaged in the custom, commercial, or contract
 3 spraying or application of pesticides and broadcast chemicals may, by regulation, be
 4 required to secure a surety bond or liability insurance. **The department shall**
 5 **establish and collect a fee for a license issued under this subsection. The fee shall**
 6 **be \$25 times the number of years for which the license is valid when issued,**
 7 **regardless of how many categories of use are authorized under the license. The**
 8 **department shall review the licensing fee every two years and recommend**
 9 **changes in the fee to the legislature when considered appropriate.**

10 * **Sec. 4.** AS 46.03.320 is amended by adding a new subsection to read:

11 (c) The department shall compile and make available on the Internet the list of
 12 pesticides registered for use in the state and the known potential hazards incidental to
 13 the use of each pesticide.

14 * **Sec. 5.** AS 46.03 is amended by adding a new section to read:

15 **Sec. 46.03.325. Notice of commercial pesticide spraying.** (a) A person who
 16 engages in the custom, commercial, or contract spraying or application of pesticides
 17 shall give written notice as provided in this section every time that the person sprays a
 18 pesticide out of doors, unless the spraying is covered by the notice provisions of
 19 AS 46.03.330.

20 (b) The notice required under this section shall be posted at least 48 hours, but
 21 not more than 72 hours, before the spraying and shall continue to be posted for at least
 22 48 hours after the spraying is completed.

23 (c) The notice shall be posted

24 (1) on the property that is the subject of the spraying and on each
 25 residence and each commercial building with a different owner or manager on all
 26 properties adjacent to the location of the spraying; and

27 (2) in a manner that is reasonably calculated to provide actual notice to
 28 the persons living or doing business on property contiguous to the property that will be
 29 or has been sprayed.

30 (d) The notice required under this section must include

31 (1) the trade name of each pesticide;

1 (2) the chemical name, to the extent available, of the principal active
2 ingredients in each pesticide;

3 (3) the exact date and approximate time that the pesticide will be
4 sprayed or has been sprayed;

5 (4) the name, address, and telephone number of the person doing the
6 spraying;

7 (5) a warning that the pesticide is or may be harmful; and

8 (6) a statement of recommended precautions.

9 (e) The department shall provide samples of the notice required under this
10 section. Substantial compliance with the sample notices constitutes compliance with
11 this section.

12 * **Sec. 6.** AS 46.03 is amended by adding new sections to article 5 to read:

13 **Sec. 46.03.335. Pesticide tracking system.** (a) The department shall
14 establish and implement a pesticide use tracking system. In developing the system,
15 the department shall ensure that, to the extent practicable, the data submission process
16 uses existing record-keeping requirements, automates the reporting system, and
17 encourages electronic submission of data. The department shall strive for a system
18 that is efficient and cost-effective and that reveals the location and extent of pesticide
19 use to the extent practicable.

20 (b) The department may establish regulations for the submission and
21 dissemination of accurate data for the tracking system, including regulations

22 (1) for data submission timing, which may differ for different
23 categories of pesticide applicators;

24 (2) regarding which pesticides are subject to the reporting
25 requirements of this section, based in part on the frequency of pesticide application; in
26 adopting regulations under this paragraph, the department shall seek and consider
27 advice from the Pesticide Advisory Board; the department may not include sanitizers
28 or disinfectants within the reporting requirements of this section; and

29 (3) regarding how location information is to be submitted and reported,
30 which may differ for different categories of pesticide applicators; the department shall
31 require at least enough specificity about the location of pesticide applications so that

1 aggregation of the data into hydrological units, as defined by the United States
2 Geological Survey, is enabled.

3 (c) The system established under this section must require all licensed custom,
4 commercial, or contract pesticide applicators in the state to report to the department
5 the following information pertaining to the professional use of the pesticides that the
6 department has determined are subject to the reporting requirements of this section:

7 (1) pesticide product name and United States Environmental Protection
8 Agency registration number;

9 (2) total amount of product applied;

10 (3) identification number assigned to the reporting entity by the
11 department;

12 (4) size in acres or square feet of the area treated;

13 (5) application rate in volume or weight of product for each area
14 treated;

15 (6) location of application;

16 (7) date of application;

17 (8) application method, including equipment, device, or apparatus
18 used; and

19 (9) target organism.

20 (d) The department shall conduct a statistically valid household pesticide use
21 survey to acquire data that would complement information received under (c) of this
22 section.

23 (e) A licensed custom, commercial, or contract pesticide applicator shall retain
24 the records upon which the information submitted under (c) of this section is based for
25 three years after submitting the report to the department.

26 (f) In addition to other civil or criminal penalties that may be applicable, the
27 department may impose a civil penalty on a licensed custom, commercial, or contract
28 pesticide applicator who fails to comply with a reporting requirement established
29 under this section. The penalty may be up to \$1,000 for the first failure to comply and
30 up to \$2,000 for a second or subsequent failure to comply.

31 **Sec. 46.03.340. Availability of information to the public.** (a) The data in

1 the tracking system developed under AS 46.03.335 shall be made accessible by the
 2 department to the general public through the Internet and shall be available from the
 3 department on disk and in printed format upon request. The department shall
 4 aggregate the data released under this section so that the anonymity of specific
 5 pesticide applicators and their clients is protected. The database shall be made
 6 accessible in a way that reasonably provides the public with understandable and useful
 7 information about the use of pesticides at local, regional, and state levels. The
 8 department shall ensure that pesticide use information in the database is accessible to
 9 researchers, pesticide users, workers, government agencies, and the public in a timely
 10 and user-friendly manner.

11 (b) On or before June 30 of each year, the department shall publish an annual
 12 report, available to the public, that includes

13 (1) a detailed summary of the information reported to the department
 14 under AS 46.03.335;

15 (2) an analysis of the data, including known reasons for any increases
 16 or decreases in pesticide use over time and within categories such as pesticide type,
 17 applicator type, and hydrological unit; and

18 (3) a description of the improvements made in the database or data
 19 collection process during the fiscal year that have made the information in the
 20 database more accessible to the public or have integrated the database with other
 21 information or databases maintained by the department.

22 **Sec. 46.03.345. Pesticide Advisory Board.** (a) There is established a
 23 Pesticide Advisory Board consisting of seven members appointed by the governor as
 24 follows:

25 (1) one member who is a pesticide applicator or pesticide dealer who is
 26 required to be licensed by the department;

27 (2) one member who is not employed by or the agent of a licensed
 28 pesticide applicator or pesticide dealer and who has demonstrable expertise in fisheries
 29 biology or fish toxicology;

30 (3) one member who is not employed by or the agent of a licensed
 31 pesticide applicator or pesticide dealer and who has demonstrable expertise in wildlife

1 biology or wildlife toxicology;

2 (4) one member who is employed by or is an agent of a public water
3 supplier;

4 (5) one member who is an agent or specialist with the cooperative
5 extension service, University of Alaska;

6 (6) one member who is not employed by or the agent of a licensed
7 pesticide applicator or pesticide dealer and who has some expertise in public health
8 issues, particularly children's health issues; and

9 (7) one public member.

10 (b) The Pesticide Advisory Board shall

11 (1) advise the department on the development and implementation of
12 the pesticide use tracking system required under AS 46.03.335, including advice on
13 ways to make it as easy as practicable for persons to comply with the reporting
14 requirements of AS 46.03.335;

15 (2) develop a household survey to be used by the department to gather
16 information related to household use of pesticides, especially the location of intended
17 use, purpose, and amounts;

18 (3) recommend to the department methods for increasing public
19 awareness of less toxic alternatives to pesticides;

20 (4) solicit public input on, and recommend to the department, ways to
21 improve the reporting and enforcement process and on ways to improve the
22 accessibility and utility of the data generated by the tracking system;

23 (5) recommend to the department ways to address the problem of
24 persistent organic pollutants in the state; and

25 (6) recommend to all state agencies and the University of Alaska ways
26 in which they could modify their practices with regard to pest control so that
27 prevention of pest populations is emphasized through structural and procedural
28 modifications that reduce the potential habitat of pests, pesticides will be used as a last
29 resort, the least hazardous pesticide will be used when pesticide use is needed, and
30 pesticide use will be targeted to areas that are not accessible to people, especially
31 children.

1 (c) If there is a vacancy on the board, the governor shall make an appointment
2 to become immediately effective. A member serves at the pleasure of the governor.

3 (d) The Pesticide Advisory Board shall select one of its members as chair and
4 another as vice-chair for the terms and with the duties and powers considered
5 necessary by the board for the performance of the functions of the Pesticide Advisory
6 Board.

7 (e) A majority of the members of the Pesticide Advisory Board constitutes a
8 quorum for the transaction of business. The Pesticide Advisory Board shall meet at a
9 place and time determined by the board. The board may also meet at other times and
10 places specified by the call of the chair or of a majority of the members of the board.

11 (f) Notwithstanding AS 39.20.180, a member of the Pesticide Advisory Board
12 is not entitled to reimbursement of transportation expenses and payment of per diem
13 allowances.

14 **Sec. 46.03.350. Technical assistance.** (a) In order to develop and implement
15 the pesticide use tracking system required under AS 46.03.335, the department and the
16 Pesticide Advisory Board may request technical assistance from a public or private
17 agency with expertise in the subject matter.

18 (b) The department may develop a program to provide technical assistance to
19 pesticide applicators who are required to report under AS 46.03.335. The department
20 may develop and provide computer software to licensed pesticide applicators to
21 facilitate reporting for the tracking system.

22 **Sec. 46.03.355. Department's use of the tracking system.** The department
23 shall use the pesticide use database developed under AS 46.03.335 in carrying out the
24 department's responsibilities for the protection of water quality, other environmental
25 protection, worker health and safety programs, public health protection programs,
26 pesticide-related illness surveillance programs, risk assessments, and pest management
27 research and control programs. The department shall cooperate with and advise other
28 state agencies concerning their programs that may be affected by the use of pesticides.

29 * **Sec. 7.** AS 46.03.335(b) is amended to read:

30 (b) The department may establish regulations for the submission and
31 dissemination of accurate data for the tracking system, including regulations

1 (1) for data submission timing, which may differ for different
2 categories of pesticide applicators;

3 (2) regarding which pesticides are subject to the reporting
4 requirements of this section, based in part on the frequency of pesticide application;
5 [IN ADOPTING REGULATIONS UNDER THIS PARAGRAPH, THE
6 DEPARTMENT SHALL SEEK AND CONSIDER ADVICE FROM THE
7 PESTICIDE ADVISORY BOARD;] the department may not include sanitizers or
8 disinfectants within the reporting requirements of this section; and

9 (3) regarding how location information is to be submitted and reported,
10 which may differ for different categories of pesticide applicators; the department shall
11 require at least enough specificity about the location of pesticide applications so that
12 aggregation of the data into hydrological units, as defined by the United States
13 Geological Survey, is enabled.

14 * **Sec. 8.** AS 46.03.350(a) is amended to read:

15 (a) In order to develop and implement the pesticide use tracking system
16 required under AS 46.03.335, the department [AND THE PESTICIDE ADVISORY
17 BOARD] may request technical assistance from a public or private agency with
18 expertise in the subject matter.

19 * **Sec. 9.** AS 46.03.345 is repealed.

20 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 REGULATIONS. The Department of Environmental Conservation may proceed to
23 develop and adopt regulations to implement this Act. The regulations take effect under
24 AS 44.62 (Administrative Procedure Act), but not before January 1, 2005.

25 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 REPORT. The Pesticide Advisory Board shall submit a report to the governor by
28 January 1, 2006, concerning the board's recommendations for action related to its areas of
29 jurisdiction under AS 46.03.345(b), added by sec. 6 of this Act. The board shall notify the
30 legislature that the report is available.

31 * **Sec. 12.** Except as provided in secs. 13 and 14 of this Act, this Act takes effect January 1,

1 2005.

2 * **Sec. 13.** Sections 7 - 9 of this Act take effect June 30, 2008.

3 * **Sec. 14.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).