

HB5378



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5378

Introduced 1/31/2022, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

415 ILCS 60/4

from Ch. 5, par. 804

Amends the Illinois Pesticide Act. Expands the definition of "restricted use pesticide" to include pesticides containing chlorpyrifos or malathion as an active ingredient.

LRB102 25081 CPF 34341 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pesticide Act is amended by
5 changing Section 4 as follows:

6 (415 ILCS 60/4) (from Ch. 5, par. 804)

7 Sec. 4. Definitions. As used in this Act:

8 1. "Director" means Director of the Illinois Department of
9 Agriculture or his authorized representative.

10 2. "Active Ingredient" means any ingredient which will
11 prevent, destroy, repel, control or mitigate a pest or which
12 will act as a plant regulator, defoliant or desiccant.

13 3. "Adulterated" shall apply to any pesticide if the
14 strength or purity is not within the standard of quality
15 expressed on the labeling under which it is sold, distributed
16 or used, including any substance which has been substituted
17 wholly or in part for the pesticide as specified on the
18 labeling under which it is sold, distributed or used, or if any
19 valuable constituent of the pesticide has been wholly or in
20 part abstracted.

21 4. "Agricultural Commodity" means produce of the land
22 including but not limited to plants and plant parts, livestock
23 and poultry and livestock or poultry products, seeds, sod,

1 shrubs and other products of agricultural origin including the
2 premises necessary to and used directly in agricultural
3 production. Agricultural commodity also includes aquatic
4 products, including any aquatic plants and animals or their
5 by-products that are produced, grown, managed, harvested and
6 marketed on an annual, semi-annual, biennial or short-term
7 basis, in permitted aquaculture facilities.

8 5. "Animal" means all vertebrate and invertebrate species
9 including, but not limited to, man and other mammals, bird,
10 fish, and shellfish.

11 6. "Beneficial Insects" means those insects which during
12 their life cycle are effective pollinators of plants,
13 predators of pests or are otherwise beneficial.

14 7. "Certified applicator".

15 A. "Certified applicator" means any individual who is
16 certified under this Act to purchase, use, or supervise
17 the use of pesticides which are classified for restricted
18 use.

19 B. "Private applicator" means a certified applicator
20 who purchases, uses, or supervises the use of any
21 pesticide classified for restricted use, for the purpose
22 of producing any agricultural commodity on property owned,
23 rented, or otherwise controlled by him or his employer, or
24 applied to other property if done without compensation
25 other than trading of personal services between no more
26 than 2 producers of agricultural commodities.

1 C. "Licensed Commercial Applicator" means a certified
2 applicator, whether or not he is a private applicator with
3 respect to some uses, who owns or manages a business that
4 is engaged in applying pesticides, whether classified for
5 general or restricted use, for hire. The term also applies
6 to a certified applicator who uses or supervises the use
7 of pesticides, whether classified for general or
8 restricted use, for any purpose or on property of others
9 excluding those specified by subparagraphs 7 (B), (D), (E)
10 of Section 4 of this Act.

11 D. "Commercial Not For Hire Applicator" means a
12 certified applicator who uses or supervises the use of
13 pesticides classified for general or restricted use for
14 any purpose on property of an employer when such activity
15 is a requirement of the terms of employment and such
16 application of pesticides under this certification is
17 limited to property under the control of the employer only
18 and includes, but is not limited to, the use or
19 supervision of the use of pesticides in a greenhouse
20 setting. "Commercial Not For Hire Applicator" also
21 includes a certified applicator who uses or supervises the
22 use of pesticides classified for general or restricted use
23 as an employee of a state agency, municipality, or other
24 duly constituted governmental agency or unit.

25 8. "Defoliant" means any substance or combination of
26 substances which cause leaves or foliage to drop from a plant

1 with or without causing abscission.

2 9. "Desiccant" means any substance or combination of
3 substances intended for artificially accelerating the drying
4 of plant tissue.

5 10. "Device" means any instrument or contrivance, other
6 than a firearm or equipment for application of pesticides when
7 sold separately from pesticides, which is intended for
8 trapping, repelling, destroying, or mitigating any pest, other
9 than bacteria, virus, or other microorganisms on or living in
10 man or other living animals.

11 11. "Distribute" means offer or hold for sale, sell,
12 barter, ship, deliver for shipment, receive and then deliver,
13 or offer to deliver pesticides, within the State.

14 12. "Environment" includes water, air, land, and all
15 plants and animals including man, living therein and the
16 interrelationships which exist among these.

17 13. "Equipment" means any type of instruments and
18 contrivances using motorized, mechanical or pressure power
19 which is used to apply any pesticide, excluding pressurized
20 hand-size household apparatus containing dilute ready to apply
21 pesticide or used to apply household pesticides.

22 14. "FIFRA" means the Federal Insecticide, Fungicide, and
23 Rodenticide Act, as amended.

24 15. "Fungi" means any non-chlorophyll bearing
25 thallophytes, any non-chlorophyll bearing plant of a lower
26 order than mosses or liverworts, as for example rust, smut,

1 mildew, mold, yeast and bacteria, except those on or in living
2 animals including man and those on or in processed foods,
3 beverages or pharmaceuticals.

4 16. "Household Substance" means any pesticide customarily
5 produced and distributed for use by individuals in or about
6 the household.

7 17. "Imminent Hazard" means a situation which exists when
8 continued use of a pesticide would likely result in
9 unreasonable adverse effect on the environment or will involve
10 unreasonable hazard to the survival of a species declared
11 endangered by the U.S. Secretary of the Interior or to species
12 declared to be protected by the Illinois Department of Natural
13 Resources.

14 18. "Inert Ingredient" means an ingredient which is not an
15 active ingredient.

16 19. "Ingredient Statement" means a statement of the name
17 and percentage of each active ingredient together with the
18 total percentage of inert ingredients in a pesticide and for
19 pesticides containing arsenic in any form, the ingredient
20 statement shall include percentage of total and water soluble
21 arsenic, each calculated as elemental arsenic. In the case of
22 spray adjuvants the ingredient statement need contain only the
23 names of the functioning agents and the total percent of those
24 constituents ineffective as spray adjuvants.

25 20. "Insect" means any of the numerous small invertebrate
26 animals generally having the body more or less obviously

1 segmented for the most part belonging to the class Insects,
2 comprised of six-legged, usually winged forms, as for example
3 beetles, caterpillars, and flies. This definition encompasses
4 other allied classes of arthropods whose members are wingless
5 and usually have more than 6 legs as for example spiders,
6 mites, ticks, centipedes, and millipedes.

7 21. "Label" means the written, printed or graphic matter
8 on or attached to the pesticide or device or any of its
9 containers or wrappings.

10 22. "Labeling" means the label and all other written,
11 printed or graphic matter: (a) on the pesticide or device or
12 any of its containers or wrappings, (b) accompanying the
13 pesticide or device or referring to it in any other media used
14 to disseminate information to the public, (c) to which
15 reference is made to the pesticide or device except when
16 references are made to current official publications of the U.
17 S. Environmental Protection Agency, Departments of
18 Agriculture, Health, Education and Welfare or other Federal
19 Government institutions, the state experiment station or
20 colleges of agriculture or other similar state institution
21 authorized to conduct research in the field of pesticides.

22 23. "Land" means all land and water area including
23 airspace, and all plants, animals, structures, buildings,
24 contrivances, and machinery appurtenant thereto or situated
25 thereon, fixed or mobile, including any used for
26 transportation.

1 24. "Licensed Operator" means a person employed to apply
2 pesticides to the lands of others under the direction of a
3 "licensed commercial applicator" or a "licensed commercial
4 not-for-hire applicator".

5 25. "Nematode" means invertebrate animals of the phylum
6 nemathelminthes and class nematoda, also referred to as nemas
7 or eelworms, which are unsegmented roundworms with elongated
8 fusiform or sac-like bodies covered with cuticle and
9 inhabiting soil, water, plants or plant parts.

10 26. "Permit" means a written statement issued by the
11 Director or his authorized agent, authorizing certain acts of
12 pesticide purchase or of pesticide use or application on an
13 interim basis prior to normal certification, registration, or
14 licensing.

15 27. "Person" means any individual, partnership,
16 association, fiduciary, corporation, or any organized group of
17 persons whether incorporated or not.

18 28. "Pest" means (a) any insect, rodent, nematode, fungus,
19 weed, or (b) any other form of terrestrial or aquatic plant or
20 animal life or virus, bacteria, or other microorganism,
21 excluding virus, bacteria, or other microorganism on or in
22 living animals including man, which the Director declares to
23 be a pest.

24 29. "Pesticide" means any substance or mixture of
25 substances intended for preventing, destroying, repelling, or
26 mitigating any pest or any substance or mixture of substances

1 intended for use as a plant regulator, defoliant or desiccant.

2 30. "Pesticide Dealer" means any person who distributes
3 registered pesticides to the user.

4 31. "Plant Regulator" means any substance or mixture of
5 substances intended through physiological action to affect the
6 rate of growth or maturation or otherwise alter the behavior
7 of ornamental or crop plants or the produce thereof. This does
8 not include substances which are not intended as plant
9 nutrient trace elements, nutritional chemicals, plant or seed
10 inoculants or soil conditioners or amendments.

11 32. "Protect Health and Environment" means to guard
12 against any unreasonable adverse effects on the environment.

13 33. "Registrant" means person who has registered any
14 pesticide pursuant to the provision of FIFRA and this Act.

15 34. "Restricted Use Pesticide" means any pesticide with
16 one or more of its uses classified as restricted by order of
17 the Administrator of USEPA, or any pesticide that contains
18 chlorpyrifos or malathion as an active ingredient.

19 35. "SLN Registration" means registration of a pesticide
20 for use under conditions of special local need as defined by
21 FIFRA.

22 36. "State Restricted Pesticide Use" means any pesticide
23 use which the Director determines, subsequent to public
24 hearing, that an additional restriction for that use is needed
25 to prevent unreasonable adverse effects.

26 37. "Structural Pest" means any pests which attack and

1 destroy buildings and other structures or which attack
2 clothing, stored food, commodities stored at food
3 manufacturing and processing facilities or manufactured and
4 processed goods.

5 38. "Unreasonable Adverse Effects on the Environment"
6 means the unreasonable risk to the environment, including man,
7 from the use of any pesticide, when taking into account
8 accrued benefits of as well as the economic, social, and
9 environmental costs of its use.

10 39. "USEPA" means United States Environmental Protection
11 Agency.

12 40. "Use inconsistent with the label" means to use a
13 pesticide in a manner not consistent with the label
14 instruction, the definition adopted in FIFRA as interpreted by
15 USEPA shall apply in Illinois.

16 41. "Weed" means any plant growing in a place where it is
17 not wanted.

18 42. "Wildlife" means all living things, not human,
19 domestic, or pests.

20 43. "Bulk pesticide" means any registered pesticide which
21 is transported or held in an individual container in undivided
22 quantities of greater than 55 U.S. gallons liquid measure or
23 100 pounds net dry weight.

24 44. "Bulk repackaging" means the transfer of a registered
25 pesticide from one bulk container (containing undivided
26 quantities of greater than 100 U.S. gallons liquid measure or

1 100 pounds net dry weight) to another bulk container
2 (containing undivided quantities of greater than 100 U.S.
3 gallons liquid measure or 100 pounds net dry weight) in an
4 unaltered state in preparation for sale or distribution to
5 another person.

6 45. "Business" means any individual, partnership,
7 corporation or association engaged in a business operation for
8 the purpose of selling or distributing pesticides or providing
9 the service of application of pesticides in this State.

10 46. "Facility" means any building or structure and all
11 real property contiguous thereto, including all equipment
12 fixed thereon used for the operation of the business.

13 47. "Chemigation" means the application of a pesticide
14 through the systems or equipment employed for the primary
15 purpose of irrigation of land and crops.

16 48. "Use" means any activity covered by the pesticide
17 label including but not limited to application of pesticide,
18 mixing and loading, storage of pesticides or pesticide
19 containers, disposal of pesticides and pesticide containers
20 and reentry into treated sites or areas.

21 (Source: P.A. 102-555, eff. 1-1-22.)