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1997 Regular Session
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Introduced and read first time: January 24, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Parents' and Employees' Right to Know - Pesticide Applications - Schools and Child**
3 **Care Centers**

4 FOR the purpose of requiring a principal of a certain school and the operator or owner
5 of a certain child care center to provide notice to parents, guardians, and staff of
6 certain information regarding certain pesticide applications; authorizing pesticide
7 applications under certain circumstances; authorizing emergency pesticide
8 applications under certain circumstances; requiring the licensee or public agency
9 permittee to provide the school principal or operator or owner of a child care center
10 with certain material; requiring a school principal or operator or owner of a child
11 care center to place certain notices in certain places at certain times and to make
12 the Material Data Safety Sheet available for public inspection; requiring students to
13 vacate a certain portion of the building before a pesticide application; prohibiting
14 students from returning to a vacated portion of the building for a certain amount of
15 time; providing a school, school system, or child care center with certain immunity
16 from certain civil liability under certain circumstances; and generally relating to a
17 pesticide application at a school or child care center.

18 BY repealing and reenacting, without amendments,
19 Article - Agriculture
20 Section 5-201(a) and (l)
21 Annotated Code of Maryland
22 (1985 Replacement Volume and 1996 Supplement)

23 BY adding to
24 Article - Agriculture
25 Section 5-208.1
26 Annotated Code of Maryland

2

1 (1985 Replacement Volume and 1996 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Agriculture**

5 5-201.

6 (a) In this subtitle the following words have the meanings indicated.

7 (1) "Pesticide" means any substance or mixture of substances intended for:

8 (1) Preventing, destroying, repelling, or mitigating any pest;

9 (2) Use as a plant regulator, defoliant, or desiccant; or

10 (3) Use as a spray adjuvant such as a wetting agent or adhesive.

11 5-208.1

12 (A) THIS SECTION APPLIES TO A PESTICIDE APPLICATION IN A:

13 (1) PUBLIC ELEMENTARY OR SECONDARY SCHOOL; OR

14 (2) CHILD CARE CENTER LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE
15 FAMILY LAW ARTICLE.

16 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) "EMERGENCY PESTICIDE APPLICATION" MEANS AN UNSCHEDULED
19 APPLICATION OF A PESTICIDE UNDER CONDITIONS THAT DO NOT ALLOW
20 SUFFICIENT TIME FOR ADVANCE NOTICE OF THE APPLICATION TO PARENTS,
21 GUARDIANS, AND STAFF.

22 (3) "PESTICIDE" DOES NOT INCLUDE:

23 (I) AN ANTIMICROBIAL AGENT, SUCH AS A DISINFECTANT,
24 SANITIZER, OR DEODORIZER USED FOR CLEANING PURPOSES; OR

25 (II) A BAIT STATION, UNLESS THE BAIT STATION CONTAINS A
26 SUBSTANCE OR MIXTURE OF SUBSTANCES THAT VOLATILIZE INTO THE AMBIENT
27 AIR.

28 (4) "PORTION OF THE BUILDING" INCLUDES AN INTERIOR AREA OF A
29 SCHOOL OR CHILD CARE CENTER THAT IS CONTIGUOUS TO AND NOT SEPARATED
30 BY A DOOR FROM AN AREA THAT HAS BEEN TREATED OR IS TO BE TREATED WITH
31 PESTICIDES.

32 (5) "STAFF" MEANS AN EMPLOYEE OR SUPPORT PERSONNEL OF A
33 SCHOOL OR CHILD CARE CENTER.

34 (C) (1) AT THE BEGINNING OF EACH SCHOOL QUARTER, THE SCHOOL
35 PRINCIPAL OR CHILD CARE CENTER OPERATOR OR OWNER SHALL PROVIDE A
36 NOTICE THAT INCLUDES THE MATERIAL LISTED IN PARAGRAPH (2) OF THIS

3

1 SUBSECTION TO PARENTS, GUARDIANS, AND STAFF THROUGH THE REGULAR
2 MEANS OF PARENT, GUARDIAN, AND STAFF NOTIFICATION, INCLUDING REGULAR
3 SCHOOL OR CHILD CARE CENTER PUBLICATIONS.

4 (2) THE NOTICE REQUIRED TO BE PROVIDED UNDER THIS SUBSECTION
5 SHALL INCLUDE:

6 (I) THE PEST MANAGEMENT PLAN OF THE SCHOOL OR CHILD
7 CARE CENTER;

8 (II) A LIST OF THE PESTICIDES PLANNED FOR APPLICATION, IF
9 ANY, INCLUDING THE COMMON NAMES OF THE PESTICIDES;

10 (III) THE PLANNED DATES AND GENERAL LOCATION OF
11 APPLICATION;

12 (IV) THE NAME AND TELEPHONE NUMBER OF A CONTACT IN THE
13 SCHOOL OR DAY CARE CENTER WHO IS KNOWLEDGEABLE ABOUT THE SCHOOL OR
14 DAY CARE CENTER'S PEST MANAGEMENT PLAN; AND

15 (V) INFORMATION FROM THE PRODUCT LABEL AND MATERIAL
16 DATA SAFETY SHEET ABOUT POSSIBLE SIDE EFFECTS OF AND ADVERSE REACTIONS
17 TO THE PESTICIDES TO BE USED.

18 (D) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
19 PARAGRAPH OR PARAGRAPH (2) OF THIS SUBSECTION, A SCHOOL PRINCIPAL OR
20 THE OPERATOR OR OWNER OF A CHILD CARE CENTER MAY AUTHORIZE A
21 PESTICIDE APPLICATION ONLY ON THE DATES, IN THE GENERAL LOCATION, AND
22 USING THE PESTICIDES SPECIFIED IN THE NOTICE REQUIRED UNDER SUBSECTION
23 (C)(2)(II) AND (III) OF THIS SECTION.

24 (II) IF THE SCHOOL PRINCIPAL OR OPERATOR OR OWNER OF A
25 CHILD CARE CENTER INTENDS TO AUTHORIZE A PESTICIDE APPLICATION, ON A
26 DATE, IN A LOCATION, OR USING A PESTICIDE OTHER THAN AS SPECIFIED IN
27 SUBSECTION (C)(2)(II) OR (III) OF THIS SECTION, THE SCHOOL PRINCIPAL OR CHILD
28 CARE CENTER OPERATOR OR OWNER SHALL NOTIFY PARENTS, GUARDIANS, AND
29 STAFF OF THE CHANGE IN THE MANNER THAT THE NOTICE IS REQUIRED TO BE
30 SENT UNDER SUBSECTION (C)(1) OF THIS SECTION NOT LESS THAN 48 HOURS BEFORE
31 THE PESTICIDE APPLICATION.

32 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
33 SCHOOL PRINCIPAL OR OPERATOR OR OWNER OF A CHILD CARE CENTER MAY
34 AUTHORIZE AN EMERGENCY PESTICIDE APPLICATION ONLY:

35 1. IN THE EVENT OF AN IMMEDIATE THREAT TO THE
36 HEALTH AND SAFETY OF A STUDENT OR STAFF MEMBER; AND

37 2. AFTER ALL REASONABLE NONTOXIC MEANS HAVE BEEN
38 EXHAUSTED.

39 (II) IF A PRINCIPAL OF A SCHOOL OR OPERATOR OR OWNER OF A
40 CHILD CARE CENTER AUTHORIZES AN EMERGENCY PESTICIDE APPLICATION, THE
41 SCHOOL PRINCIPAL OR OPERATOR OR OWNER OF A CHILD CARE CENTER SHALL

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1 PROVIDE NOTICE TO THE PARENTS, GUARDIANS, AND STAFF OF THE EMERGENCY
2 PESTICIDE APPLICATION IN THE MANNER THAT THE NOTICE IS REQUIRED TO BE
3 SENT UNDER SUBSECTION (C)(1) OF THIS SECTION NOT LATER THAN 24 HOURS
4 AFTER THE APPLICATION OR BY THE END OF THE NEXT SCHOOL DAY, WHICHEVER
5 IS EARLIER.

6 (E) (1) EXCEPT IN THE CASE OF AN EMERGENCY PESTICIDE APPLICATION,
7 NOT LESS THAN 48 HOURS BEFORE A PESTICIDE APPLICATION UNDER THIS SECTION,
8 THE PRINCIPAL OF A SCHOOL OR OPERATOR OR OWNER OF A CHILD CARE CENTER
9 SHALL POST AS A REMINDER TO STUDENTS, PARENTS, GUARDIANS, AND STAFF A
10 NOTICE OF THE APPLICATION:

11 (I) AT THE PRIMARY ENTRANCE TO THE SCHOOL OR CHILD CARE
12 CENTER; AND

13 (II) IF THE SCHOOL OR CHILD CARE CENTER IS IN SESSION, IN A
14 CENTRAL AREA OF THE SCHOOL OR CHILD CARE CENTER.

15 (2) THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION,
16 WHERE APPLICABLE, DOES NOT EXCUSE THE LICENSEE OR PUBLIC AGENCY
17 PERMITTEE FROM COMPLYING WITH THE REQUIREMENT TO POST A SIGN UNDER §
18 5-208(C) OF THIS SUBTITLE.

19 (3) THE LICENSEE OR PUBLIC AGENCY PERMITTEE SHALL PROVIDE THE
20 SCHOOL PRINCIPAL OR OPERATOR OR OWNER OF THE CHILD CARE CENTER WITH
21 THE PRODUCT LABEL AND THE MATERIAL DATA SAFETY SHEETS CONCERNING THE
22 PESTICIDE TO BE APPLIED WHICH SHALL BE ON FILE AT THE SCHOOL OR CHILD
23 CARE CENTER AND AVAILABLE FOR PUBLIC EXAMINATION.

24 (F) (1) (I) BEFORE A PESTICIDE APPLICATION UNDER THIS SECTION,
25 STUDENTS SHALL VACATE THE PORTION OF THE BUILDING OR GROUNDS TO BE
26 TREATED.

27 (II) EVEN IF THE ONLY PART OF A CLASSROOM TO BE TREATED IS
28 A CLOSET OR OTHER ENCLOSED AREA WITHIN THE CLASSROOM, STUDENTS SHALL
29 VACATE THE CLASSROOM.

30 (2) STUDENTS MAY NOT RETURN TO A PORTION OF THE BUILDING,
31 GROUNDS, OR A CLASSROOM VACATED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION FOR AT LEAST 12 HOURS AFTER THE PESTICIDE APPLICATION OR FOR
33 THE AMOUNT OF TIME RECOMMENDED ON THE INSTRUCTIONS OF THE PESTICIDE
34 APPLIED, WHICHEVER IS LONGER.

35 (G) A SCHOOL, THE SCHOOL SYSTEM IN WHICH A SCHOOL IS LOCATED, OR A
36 CHILD CARE CENTER THAT SENDS THE NOTICES TO PARENTS OR GUARDIANS AS
37 REQUIRED BY THIS SECTION IS IMMUNE FROM CIVIL LIABILITY ARISING FROM A
38 FAILURE OF A STUDENT TO DELIVER A NOTICE TO A PARENT OR GUARDIAN.

39 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
40 October 1, 1997.