

HOUSE BILL 1193

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HB 397/97 - ENV

1998 Regular Session
8r1108

By: **Delegates Pitkin, R. Baker, W. Baker, Baldwin, Barve, Beck, Benson, Bobo, Branch, Cadden, Clagett, Comeau, Conroy, Crumlin, Cryor, D. Davis, DeCarlo, Dembrow, Dypski, Exum, Faulkner, Finifter, Franchot, Frank, Frush, Genn, Goldwater, Grosfeld, Healey, Hecht, Heller, Howard, Hubbard, B. Hughes, Hurson, Jones, Kagan, Klausmeier, Kopp, Leopold, Love, Mandel, Marriott, McIntosh, Menes, C. Mitchell, Montague, Morhaim, T. Murphy, Muse, Oaks, Patterson, Pendergrass, Perry, Petzold, Proctor, Rosenberg, Rzepkowski, Shriver, Turner, Watson, Nathan-Pulliam, E. Burns, and Opara**

Introduced and read first time: February 13, 1998
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Parents' and Employees' Right to Know - Pesticide Applications - Schools**
3 **and Child 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
7 pesticide applications under certain circumstances; authorizing emergency
8 pesticide applications under certain circumstances; requiring the licensee or
9 public agency permittee to provide the school principal or operator or owner of a
10 child care center with certain material; requiring a school principal or operator
11 or owner of a child care center to place certain notices in certain places at certain
12 times and to make the Material Data Safety Sheet available for public
13 inspection; requiring students to vacate a certain portion of the building before
14 a pesticide application; prohibiting students from returning to a vacated portion
15 of the building for a certain amount of time; providing a school, school system, or
16 child care center with certain immunity from certain civil liability under certain
17 circumstances; and generally relating to a pesticide application at a school or
18 child care center.

19 BY repealing and reenacting, without amendments,
20 Article - Agriculture
21 Section 5-201(a) and (l)
22 Annotated Code of Maryland
23 (1985 Replacement Volume and 1997 Supplement)

24 BY adding to
25 Article - Agriculture

1 Section 5-208.1
2 Annotated Code of Maryland
3 (1985 Replacement Volume and 1997 Supplement)

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

6 **Article - Agriculture**

7 5-201.

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

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

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

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

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

13 5-208.1.

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

15 (1) PUBLIC ELEMENTARY OR SECONDARY SCHOOL; OR

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

18 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

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

24 (3) "PESTICIDE" DOES NOT INCLUDE:

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

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

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

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

3 (C) (1) AT THE BEGINNING OF EACH SCHOOL QUARTER, THE SCHOOL
4 PRINCIPAL OR CHILD CARE CENTER OPERATOR OR OWNER SHALL PROVIDE A NOTICE
5 THAT INCLUDES THE MATERIAL LISTED IN PARAGRAPH (2) OF THIS SUBSECTION TO
6 PARENTS, GUARDIANS, AND STAFF THROUGH THE REGULAR MEANS OF PARENT,
7 GUARDIAN, AND STAFF NOTIFICATION, INCLUDING REGULAR SCHOOL OR CHILD
8 CARE CENTER PUBLICATIONS.

9 (2) THE NOTICE REQUIRED TO BE PROVIDED UNDER THIS SUBSECTION
10 SHALL INCLUDE:

11 (I) THE PEST MANAGEMENT PLAN OF THE SCHOOL OR CHILD
12 CARE CENTER;

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

15 (III) THE PLANNED DATES AND GENERAL LOCATION OF
16 APPLICATION;

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

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

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

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

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

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

3 2. AFTER ALL REASONABLE NONTOXIC MEANS HAVE BEEN
4 EXHAUSTED.

5 (II) IF A PRINCIPAL OF A SCHOOL OR OPERATOR OR OWNER OF A
6 CHILD CARE CENTER AUTHORIZES AN EMERGENCY PESTICIDE APPLICATION, THE
7 SCHOOL PRINCIPAL OR OPERATOR OR OWNER OF A CHILD CARE CENTER SHALL
8 PROVIDE NOTICE TO THE PARENTS, GUARDIANS, AND STAFF OF THE EMERGENCY
9 PESTICIDE APPLICATION IN THE MANNER THAT THE NOTICE IS REQUIRED TO BE
10 SENT UNDER SUBSECTION (C)(1) OF THIS SECTION NOT LATER THAN 24 HOURS
11 AFTER THE APPLICATION OR BY THE END OF THE NEXT SCHOOL DAY, WHICHEVER IS
12 EARLIER.

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

18 (I) AT THE PRIMARY ENTRANCE TO THE SCHOOL OR CHILD CARE
19 CENTER; AND

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

22 (2) THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION,
23 WHERE APPLICABLE, DOES NOT EXCUSE THE LICENSEE OR PUBLIC AGENCY
24 PERMITTEE FROM COMPLYING WITH THE REQUIREMENT TO POST A SIGN UNDER §
25 5-208(C) OF THIS SUBTITLE.

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

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

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

37 (2) STUDENTS MAY NOT RETURN TO A PORTION OF THE BUILDING,
38 GROUNDS, OR A CLASSROOM VACATED UNDER PARAGRAPH (1) OF THIS SUBSECTION
39 FOR AT LEAST 12 HOURS AFTER THE PESTICIDE APPLICATION OR FOR THE AMOUNT

1 OF TIME RECOMMENDED ON THE INSTRUCTIONS OF THE PESTICIDE APPLIED,
2 WHICHEVER IS LONGER.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1998.