

HOUSE BILL 507

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HB 1193/98 - ENV

1999 Regular Session  
9r0011

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By: **Delegates Pitkin, R. Baker, W. Baker, Burns, Cadden, Clagett, Conroy, Cryor, Dypski, Finifter, Frush, Grosfeld, Healey, Heller, Hubbard, Hurson, A. Jones, Kopp, Leopold, Marriott, Mandel, Menes, Montague, Morhaim, Patterson, Proctor, Rosenberg, Shriver, Owings, Benson, Barve, Barkley, Franchot, Moe, Valderrama, Rosso, Nathan-Pulliam, and Krysiak**

Introduced and read first time: February 10, 1999  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Care Facility - Pesticide Application - Prior Notification**

3 FOR the purpose of requiring the owner or operator of a child care facility to provide  
4 notice to parents, guardians, and staff of certain information regarding certain  
5 pesticide applications; authorizing certain pesticide applications at a child care  
6 facility under certain circumstances; authorizing emergency pesticide  
7 applications at a child care facility under certain circumstances; requiring a  
8 licensee or public agency permittee to provide the owner or operator of a child  
9 care facility with certain material; requiring the owner or operator of a child  
10 care facility to provide certain notice and to make certain information available  
11 for public inspection; requiring children to vacate a certain portion of a child  
12 care facility before a pesticide application; prohibiting children from returning  
13 to a vacated portion of the facility for a certain amount of time after a pesticide  
14 application; requiring the owner or operator of a child care facility to provide  
15 certain notice of the use of a bait station; and generally relating to a pesticide  
16 application at child care facilities.

17 BY repealing and reenacting, without amendments,  
18 Article - Agriculture  
19 Section 5-201(a) and (l)  
20 Annotated Code of Maryland  
21 (1985 Replacement Volume and 1998 Supplement)

22 BY adding to  
23 Article - Agriculture  
24 Section 5-208.2  
25 Annotated Code of Maryland  
26 (1985 Replacement Volume and 1998 Supplement)

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

3 **Article - Agriculture**

4 5-201.

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

6 (l) "Pesticide" means any substance or mixture of substances intended for:

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

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

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

10 5-208.2.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (2) "EMERGENCY PESTICIDE APPLICATION" MEANS AN UNSCHEDULED  
14 APPLICATION OF A PESTICIDE DUE TO A SUDDEN NEED TO MITIGATE OR ELIMINATE  
15 A PEST WHICH THREATENS THE HEALTH OR SAFETY OF A CHILD OR STAFF MEMBER  
16 UNDER CONDITIONS THAT DO NOT ALLOW SUFFICIENT TIME FOR ADVANCE NOTICE  
17 OF THE APPLICATION TO PARENTS, GUARDIANS, OR STAFF.

18 (3) "PESTICIDE" DOES NOT INCLUDE:

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

21 (II) A BAIT STATION.

22 (4) "PORTION OF THE BUILDING" INCLUDES AN INTERIOR AREA OF A  
23 CHILD CARE FACILITY THAT IS CONTIGUOUS TO AND NOT SEPARATED BY A DOOR  
24 FROM AN AREA THAT HAS BEEN TREATED OR IS TO BE TREATED WITH A PESTICIDE.

25 (5) "STAFF" MEANS AN EMPLOYEE OR SUPPORT PERSONNEL OF A CHILD  
26 CARE FACILITY.

27 (B) THIS SECTION APPLIES TO PESTICIDE APPLICATION IN A CHILD CARE  
28 FACILITY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE;  
29 HOWEVER, IT DOES NOT APPLY TO ANY CHILD CARE FACILITY LOCATED IN A PUBLIC  
30 ELEMENTARY SCHOOL.

31 (C) (1) AT LEAST 48 HOURS PRIOR TO ANY PESTICIDE APPLICATION, THE  
32 OWNER OR OPERATOR OF A CHILD CARE FACILITY SHALL PROVIDE WRITTEN NOTICE  
33 THROUGH THE REGULAR MEANS OF NOTIFICATION, INCLUDING CHILD CARE  
34 FACILITY PUBLICATIONS, TO PARENTS, GUARDIANS, AND STAFF.

1 (2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

2 (I) THE COMMON AND TRADE NAMES OF THE PESTICIDE;

3 (II) THE DATE, TIME, AND LOCATION OF APPLICATION;

4 (III) A SUMMARY OF THE POTENTIAL ADVERSE HUMAN HEALTH  
5 EFFECTS BASED ON THE MATERIAL SAFETY DATA SHEET AND THE PRODUCT LABEL  
6 OF THE PESTICIDE APPLIED, INCLUDING ACUTE EFFECTS, CHRONIC EFFECTS,  
7 MEDICAL CONDITIONS EXACERBATED BY EXPOSURE AND IF NOTED,  
8 CARCINOGENICITY OF PESTICIDE; AND

9 (IV) THE FOLLOWING LANGUAGE:

10 "THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES  
11 ENVIRONMENTAL PROTECTION AGENCY HAS STATED: WHERE POSSIBLE PERSONS  
12 WHO POTENTIALLY ARE MORE SENSITIVE, SUCH AS PREGNANT WOMEN AND  
13 INFANTS (LESS THAN 2 YEARS OLD), SHOULD AVOID ANY UNNECESSARY PESTICIDE  
14 EXPOSURE."

15 (3) A CHILD CARE FACILITY THAT DELIVERS NOTICE IN THE MANNER  
16 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS CONSIDERED TO HAVE  
17 SATISFIED ANY NOTIFICATION REQUIREMENT, WHETHER THE NOTICE IS ACTUALLY  
18 RECEIVED BY THE PARENT OR GUARDIAN.

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

24 (II) IF THE OWNER OR OPERATOR OF A CHILD CARE FACILITY  
25 INTENDS TO AUTHORIZE A PESTICIDE APPLICATION, ON A DATE, IN A LOCATION, OR  
26 USING A PESTICIDE OTHER THAN AS SPECIFIED IN SUBSECTION (C)(2)(I) OR (II) OF  
27 THIS SECTION, THE OWNER OR OPERATOR OF THE CHILD CARE FACILITY SHALL  
28 NOTIFY PARENTS, GUARDIANS, AND STAFF OF THE CHANGE NOT LESS THAN 48  
29 HOURS BEFORE THE PESTICIDE APPLICATION BY REGULAR MEANS OF WRITTEN  
30 COMMUNICATION.

31 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN  
32 OWNER OR OPERATOR OF A CHILD CARE FACILITY MAY AUTHORIZE EMERGENCY  
33 PESTICIDE APPLICATION ONLY IF THERE IS AN IMMEDIATE THREAT TO THE HEALTH  
34 AND SAFETY OF A CHILD OR STAFF MEMBER.

35 (II) WITHIN 24 HOURS OF AN EMERGENCY PESTICIDE APPLICATION  
36 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SCHOOL SHALL PROVIDE TO  
37 EACH PARENT, GUARDIAN, AND STAFF MEMBER:

38 1. THE COMMON AND TRADE NAME OF THE PESTICIDE;

1                                   2.           THE DATE, TIME, AND LOCATION OF THE APPLICATION;

2                                   3.           A SUMMARY OF THE POTENTIAL ADVERSE HUMAN  
3 HEALTH EFFECTS BASED ON THE MATERIAL SAFETY DATA SHEET AND THE  
4 PRODUCT LABEL OF THE PESTICIDE APPLIED, INCLUDING ACUTE EFFECTS, CHRONIC  
5 EFFECTS, MEDICAL CONDITIONS EXACERBATED BY EXPOSURE AND IF NOTED,  
6 CARCINOGENICITY OF PESTICIDE; AND

7                                   4.           THE FOLLOWING LANGUAGE:

8       "THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES  
9 ENVIRONMENTAL PROTECTION AGENCY HAS STATED: WHERE POSSIBLE PERSONS  
10 WHO POTENTIALLY ARE MORE SENSITIVE, SUCH AS PREGNANT WOMEN AND  
11 INFANTS (LESS THAN 2 YEARS OLD), SHOULD AVOID ANY UNNECESSARY PESTICIDE  
12 EXPOSURE."

13       (E)       THE LICENSEE OR PUBLIC AGENCY PERMITTEE SHALL PROVIDE THE  
14 OWNER OR OPERATOR OF THE CHILD CARE FACILITY WITH THE PRODUCT LABEL  
15 AND THE MATERIAL SAFETY DATA SHEETS CONCERNING THE PESTICIDE TO BE  
16 APPLIED. THE CHILD CARE FACILITY SHALL MAINTAIN THIS INFORMATION ON FILE,  
17 AVAILABLE FOR PUBLIC EXAMINATION.

18       (F)       (1)       (I)       BEFORE A PESTICIDE APPLICATION UNDER THIS SECTION,  
19 CHILDREN SHALL VACATE THE PORTION OF THE BUILDING OR GROUNDS TO BE  
20 TREATED.

21                               (II)       EVEN IF THE ONLY PART OF A ROOM TO BE TREATED IS A  
22 CLOSET IN THE ENCLOSED AREA WITHIN A ROOM, CHILDREN SHALL VACATE THE  
23 ROOM.

24                               (2)       CHILDREN MAY NOT RETURN TO A PORTION OF THE BUILDING,  
25 GROUNDS, OR A ROOM VACATED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR  
26 AT LEAST THE LONGER OF 12 HOURS AFTER THE PESTICIDE APPLICATION, OR THE  
27 AMOUNT OF TIME RECOMMENDED ON THE INSTRUCTIONS OF THE PESTICIDE  
28 APPLIED.

29       (G)       EACH CHILD CARE FACILITY SHALL DEVELOP APPROPRIATE MEANS OF  
30 IN-FACILITY NOTIFICATION BEFORE A BAIT STATION IS USED IN THE CHILD CARE  
31 FACILITY. THE MEANS MAY INCLUDE A SIGN POSTED ON THE DOOR OF THE ROOM IN  
32 WHICH THE BAIT STATION IS PLACED.

33       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 1999.