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

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 22, 1999

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CHAPTER \_\_\_\_\_

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

1 BY adding to  
 2 Article - Agriculture  
 3 Section 5-208.2  
 4 Annotated Code of Maryland  
 5 (1985 Replacement Volume and 1998 Supplement)

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

8 **Article - Agriculture**

9 5-201.

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

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

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

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

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

15 5-208.2.

16 (A) (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 DUE TO A SUDDEN NEED TO MITIGATE OR ELIMINATE  
 20 A PEST WHICH THREATENS THE HEALTH OR SAFETY OF A CHILD OR STAFF MEMBER  
 21 UNDER CONDITIONS THAT DO NOT ALLOW SUFFICIENT TIME FOR ADVANCE NOTICE  
 22 OF THE APPLICATION TO PARENTS, GUARDIANS, OR STAFF.

23 (3) "PESTICIDE" DOES NOT INCLUDE:

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

26 (II) A BAIT STATION.

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

30 ~~(5) "STAFF" MEANS AN EMPLOYEE OR SUPPORT PERSONNEL OF A CHILD  
 31 CARE FACILITY.~~

32 (B) THIS SECTION DOES NOT APPLY TO THE OUTDOOR APPLICATION OF  
 33 PESTICIDES.

1 ~~(B)~~ (C) THIS SECTION APPLIES TO PESTICIDE APPLICATION IN A CHILD  
 2 CARE FACILITY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE;  
 3 HOWEVER, IT DOES NOT APPLY TO ANY CHILD CARE FACILITY LOCATED IN A PUBLIC  
 4 ELEMENTARY SCHOOL.

5 ~~(C)~~ (D) (1) AT LEAST 48 HOURS PRIOR TO ANY INTERIOR PESTICIDE  
 6 APPLICATION, THE OWNER OR OPERATOR OF A CHILD CARE FACILITY SHALL  
 7 ~~PROVIDE WRITTEN NOTICE THROUGH THE REGULAR MEANS OF NOTIFICATION,~~  
 8 ~~INCLUDING CHILD CARE FACILITY PUBLICATIONS, TO PARENTS, GUARDIANS, AND~~  
 9 ~~STAFF POST WRITTEN NOTIFICATION ON OR ADJACENT TO THE EXTERIOR OF THE~~  
 10 ~~FRONT DOOR OF THE CHILD CARE FACILITY.~~

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

12 (I) THE COMMON ~~AND TRADE NAMES~~ NAME OF THE PESTICIDE;  
 13 AND

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

15 ~~(III) A SUMMARY OF THE POTENTIAL ADVERSE HUMAN HEALTH~~  
 16 ~~EFFECTS BASED ON THE MATERIAL SAFETY DATA SHEET AND THE PRODUCT LABEL~~  
 17 ~~OF THE PESTICIDE APPLIED, INCLUDING ACUTE EFFECTS, CHRONIC EFFECTS,~~  
 18 ~~MEDICAL CONDITIONS EXACERBATED BY EXPOSURE AND IF NOTED,~~  
 19 ~~CARCINOGENICITY OF PESTICIDE; AND~~

20 (IV) THE FOLLOWING LANGUAGE:

21 ~~"THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES~~  
 22 ~~ENVIRONMENTAL PROTECTION AGENCY HAS STATED: WHERE POSSIBLE PERSONS~~  
 23 ~~WHO POTENTIALLY ARE MORE SENSITIVE, SUCH AS PREGNANT WOMEN AND~~  
 24 ~~INFANTS (LESS THAN 2 YEARS OLD), SHOULD AVOID ANY UNNECESSARY PESTICIDE~~  
 25 ~~EXPOSURE."~~

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

30 ~~(D)~~ (E) (1) ~~(F)~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH ~~(II)~~ OF THIS  
 31 PARAGRAPH OR PARAGRAPH (2) OF THIS SUBSECTION, AN OWNER OR OPERATOR OF A  
 32 CHILD CARE FACILITY MAY AUTHORIZE A PESTICIDE APPLICATION ONLY ON THE  
 33 DATES, IN THE GENERAL LOCATION, AND USING THE PESTICIDES SPECIFIED IN THE  
 34 NOTICE REQUIRED UNDER SUBSECTION ~~(C)~~ (D)(2)(I) AND (II) OF THIS SECTION.

35 ~~(H)~~ IF THE OWNER OR OPERATOR OF A CHILD CARE FACILITY  
 36 INTENDS TO AUTHORIZE A PESTICIDE APPLICATION, ON A DATE, IN A LOCATION, OR  
 37 USING A PESTICIDE OTHER THAN AS SPECIFIED IN SUBSECTION ~~(C)~~(2)(I) OR ~~(H)~~ OF  
 38 THIS SECTION, THE OWNER OR OPERATOR OF THE CHILD CARE FACILITY SHALL  
 39 NOTIFY PARENTS, GUARDIANS, AND STAFF OF THE CHANGE NOT LESS THAN 48

~~1 HOURS BEFORE THE PESTICIDE APPLICATION BY REGULAR MEANS OF WRITTEN  
2 COMMUNICATION.~~

~~3 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN  
4 OWNER OR OPERATOR OF A CHILD CARE FACILITY MAY AUTHORIZE EMERGENCY  
5 PESTICIDE APPLICATION ONLY IF THERE IS AN IMMEDIATE THREAT TO THE HEALTH  
6 AND SAFETY OF A CHILD OR STAFF MEMBER.~~

~~7 (H) (2) WITHIN 24 HOURS OF AN EMERGENCY PESTICIDE  
8 APPLICATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SCHOOL CHILD  
9 CARE FACILITY SHALL PROVIDE TO EACH PARENT, GUARDIAN, AND STAFF MEMBER  
10 POST WRITTEN NOTIFICATION ON OR ADJACENT TO THE EXTERIOR OF THE FRONT  
11 DOOR OF THE CHILD CARE FACILITY THAT INCLUDES:~~

~~12 1. THE COMMON AND TRADE NAME OF THE PESTICIDE; AND~~

~~13 2. THE DATE, TIME, AND LOCATION OF THE APPLICATION;~~

~~14 3. A SUMMARY OF THE POTENTIAL ADVERSE HUMAN  
15 HEALTH EFFECTS BASED ON THE MATERIAL SAFETY DATA SHEET AND THE  
16 PRODUCT LABEL OF THE PESTICIDE APPLIED, INCLUDING ACUTE EFFECTS, CHRONIC  
17 EFFECTS, MEDICAL CONDITIONS EXACERBATED BY EXPOSURE AND IF NOTED,  
18 CARCINOGENICITY OF PESTICIDE; AND~~

~~19 4. THE FOLLOWING LANGUAGE:~~

~~20 "THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES  
21 ENVIRONMENTAL PROTECTION AGENCY HAS STATED: WHERE POSSIBLE PERSONS  
22 WHO POTENTIALLY ARE MORE SENSITIVE, SUCH AS PREGNANT WOMEN AND  
23 INFANTS (LESS THAN 2 YEARS OLD), SHOULD AVOID ANY UNNECESSARY PESTICIDE  
24 EXPOSURE."~~

~~25 (E) THE LICENSEE OR PUBLIC AGENCY PERMITTEE SHALL PROVIDE THE  
26 OWNER OR OPERATOR OF THE CHILD CARE FACILITY WITH THE PRODUCT LABEL  
27 AND THE MATERIAL SAFETY DATA SHEETS CONCERNING THE PESTICIDE TO BE  
28 APPLIED. THE CHILD CARE FACILITY SHALL MAINTAIN THIS INFORMATION ON FILE,  
29 AVAILABLE FOR PUBLIC EXAMINATION.~~

~~30 (F) (I) (I) BEFORE A PESTICIDE APPLICATION UNDER THIS SECTION,  
31 CHILDREN SHALL VACATE THE PORTION OF THE BUILDING OR GROUNDS TO BE  
32 TREATED.~~

~~33 (H) EVEN IF THE ONLY PART OF A ROOM TO BE TREATED IS A  
34 CLOSET IN THE ENCLOSED AREA WITHIN A ROOM, CHILDREN SHALL VACATE THE  
35 ROOM.~~

~~36 (2) CHILDREN MAY NOT RETURN TO A PORTION OF THE BUILDING,  
37 GROUNDS, OR A ROOM VACATED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR  
38 AT LEAST THE LONGER OF 12 HOURS AFTER THE PESTICIDE APPLICATION, OR THE~~

~~1 AMOUNT OF TIME RECOMMENDED ON THE INSTRUCTIONS OF THE PESTICIDE  
2 APPLIED.~~

~~3 (G) EACH CHILD CARE FACILITY SHALL DEVELOP APPROPRIATE MEANS OF  
4 IN FACILITY NOTIFICATION BEFORE A BAIT STATION IS USED IN THE CHILD CARE  
5 FACILITY. THE MEANS MAY INCLUDE A SIGN POSTED ON THE DOOR OF THE ROOM IN  
6 WHICH THE BAIT STATION IS PLACED.~~

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