

SENATE BILL 412

M4, F1, O4

3lr0626
CF HB 433

By: **Senators King, Benson, Forehand, Kelley, Madaleno, Manno,
Montgomery, Pugh, and Raskin**

Introduced and read first time: January 28, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Lawn Care Pesticides – Child Care and School Facilities –**
3 **Prohibition**

4 FOR the purpose of prohibiting, with a certain exception, a person from applying a
5 lawn care pesticide on the grounds of certain child care facilities and schools;
6 authorizing a person to apply a lawn care pesticide on the grounds of certain
7 child care facilities and schools if the Secretary of Agriculture determines that
8 the emergency application is necessary to eliminate an immediate threat to
9 human health; prohibiting certain children from accessing an area treated with
10 a lawn care pesticide for a certain time period; requiring certain child care
11 facilities and schools to designate a certain contact person and keep a written
12 record of any emergency application of a lawn care pesticide for a certain time
13 period; requiring certain child care facilities and schools to provide a certain
14 notice of the emergency application of a lawn care pesticide to each parent,
15 guardian, and staff member within a certain time period; requiring the
16 Department of Agriculture to adopt certain regulations; defining certain terms;
17 and generally relating to the application of lawn care pesticides on the grounds
18 of child care facilities and schools.

19 BY repealing and reenacting, without amendments,
20 Article – Agriculture
21 Section 5–201(a) and (l)
22 Annotated Code of Maryland
23 (2007 Replacement Volume and 2012 Supplement)

24 BY adding to
25 Article – Agriculture
26 Section 5–208.2
27 Annotated Code of Maryland
28 (2007 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 (1) “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
12 MEANINGS INDICATED.

13 (2) “CHILD CARE FACILITY” INCLUDES:

14 (I) A CHILD CARE CENTER REQUIRED TO BE LICENSED
15 UNDER TITLE 5, SUBTITLE 5, PART VII OF THE FAMILY LAW ARTICLE;

16 (II) A FAMILY CHILD CARE HOME OR LARGE FAMILY CHILD
17 CARE HOME REQUIRED TO BE REGISTERED UNDER TITLE 5, SUBTITLE 5, PART
18 V OF THE FAMILY LAW ARTICLE;

19 (III) A CHILD CARE HOME REQUIRED TO BE LICENSED
20 UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE OR UNDER
21 TITLE 9 OF THE HUMAN SERVICES ARTICLE; AND

22 (IV) A CHILD CARE INSTITUTION REQUIRED TO BE LICENSED
23 UNDER TITLE 5, SUBTITLE 5, PART V OF THE FAMILY LAW ARTICLE OR UNDER
24 TITLE 9 OF THE HUMAN SERVICES ARTICLE.

25 (3) (I) “LAWN CARE PESTICIDE” MEANS A PESTICIDE
26 REGISTERED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY AND
27 LABELED PURSUANT TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND
28 RODENTICIDE ACT FOR USE IN LAWN, GARDEN, OR ORNAMENTAL SITES AND
29 AREAS.

1 **(II) “LAWN CARE PESTICIDE” INCLUDES:**

2 1. **FUNGICIDES, HERBICIDES, AND INSECTICIDES;**
3 **AND**

4 2. **ORGANIC PESTICIDES REGISTERED BY THE U.S.**
5 **ENVIRONMENTAL PROTECTION AGENCY.**

6 **(4) “SCHOOL” INCLUDES:**

7 **(I) ANY SCHOOL IN WHICH AN INSTRUCTIONAL PROGRAM**
8 **IS OFFERED OR PROVIDED FOR CHILDREN IN ANY GRADE FROM KINDERGARTEN**
9 **THROUGH GRADE 8; AND**

10 **(II) A PRESCHOOL.**

11 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
12 **PERSON MAY NOT APPLY A LAWN CARE PESTICIDE ON THE GROUNDS OF ANY**
13 **CHILD CARE FACILITY OR SCHOOL, INCLUDING A PLAYGROUND OR**
14 **RECREATIONAL FIELD.**

15 **(C) (1) IF THE SECRETARY DETERMINES THAT THE EMERGENCY**
16 **APPLICATION OF A LAWN CARE PESTICIDE IS NECESSARY TO ELIMINATE AN**
17 **IMMEDIATE THREAT TO HUMAN HEALTH, A PERSON MAY APPLY A LAWN CARE**
18 **PESTICIDE ON THE GROUNDS OF A CHILD CARE FACILITY OR SCHOOL,**
19 **INCLUDING A PLAYGROUND OR RECREATIONAL FIELD, IN ACCORDANCE WITH**
20 **THIS SUBSECTION.**

21 **(2) IF AN EMERGENCY APPLICATION OF A LAWN CARE PESTICIDE**
22 **OCCURS ON THE GROUNDS OF A CHILD CARE FACILITY OR SCHOOL, INCLUDING**
23 **PLAYGROUNDS AND RECREATIONAL FIELDS, CHILDREN SHALL BE PROHIBITED**
24 **FROM ACCESS TO THE AREA TREATED WITH THE LAWN CARE PESTICIDE FOR AT**
25 **LEAST THE AMOUNT OF TIME SPECIFIED ON THE PESTICIDE LABEL.**

26 **(3) EACH CHILD CARE FACILITY AND SCHOOL SHALL:**

27 **(I) DESIGNATE A CONTACT PERSON WHO SHALL MAINTAIN**
28 **THE PESTICIDE LABEL OR MATERIAL SAFETY DATA SHEET OF EACH LAWN CARE**
29 **PESTICIDE USED ON THE GROUNDS; AND**

1 **(II) KEEP AND MAINTAIN A WRITTEN RECORD OF ANY**
2 **EMERGENCY APPLICATION OF A LAWN CARE PESTICIDE ON THE GROUNDS OF**
3 **THE CHILD CARE FACILITY OR SCHOOL FOR AT LEAST 5 YEARS.**

4 **(4) WITHIN 24 HOURS AFTER THE EMERGENCY APPLICATION OF**
5 **A LAWN CARE PESTICIDE, OR ON THE NEXT SCHOOL DAY, THE CHILD CARE**
6 **FACILITY OR SCHOOL SHALL NOTIFY EACH PARENT, GUARDIAN, AND STAFF**
7 **MEMBER THAT A LAWN CARE PESTICIDE WAS APPLIED FOR EMERGENCY PEST**
8 **CONTROL.**

9 **(5) THE NOTIFICATION REQUIRED UNDER PARAGRAPH (4) OF**
10 **THIS SUBSECTION SHALL INCLUDE:**

11 **(I) THE COMMON NAME OF THE LAWN CARE PESTICIDE**
12 **APPLIED;**

13 **(II) THE LOCATION OF THE APPLICATION;**

14 **(III) THE DATE AND TIME OF THE APPLICATION;**

15 **(IV) THE REASON FOR THE APPLICATION;**

16 **(V) IF THE NOTIFICATION IS MADE IN WRITING, THE**
17 **FOLLOWING LANGUAGE:**

18 **“THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES**
19 **ENVIRONMENTAL PROTECTION AGENCY HAS STATED:**

20 **“WHERE POSSIBLE, PERSONS WHO POTENTIALLY ARE MORE SENSITIVE,**
21 **SUCH AS PREGNANT WOMEN AND INFANTS (LESS THAN 2 YEARS OLD), SHOULD**
22 **AVOID ANY UNNECESSARY PESTICIDE EXPOSURE.”;**

23 **(VI) A BRIEF DESCRIPTION OF THE POTENTIAL ADVERSE**
24 **EFFECTS OF LAWN CARE PESTICIDE USE BASED UPON THE PESTICIDE LABEL OR**
25 **MATERIAL SAFETY DATA SHEET OF THE LAWN CARE PESTICIDE APPLIED; AND**

26 **(VII) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF**
27 **THE CONTACT PERSON DESIGNATED UNDER PARAGRAPH (3) OF THIS**
28 **SUBSECTION.**

29 **(6) NOTIFICATION UNDER PARAGRAPHS (4) AND (5) OF THIS**
30 **SUBSECTION MAY BE MADE BY:**

- 1 **(I) TELEPHONE CALL;**
- 2 **(II) DIRECT CONTACT; OR**
- 3 **(III) WRITTEN NOTICE SENT HOME WITH THE CHILD OR**
4 **PROVIDED TO THE STAFF MEMBER.**

- 5 **(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT**
6 **THE PROVISIONS OF THIS SECTION.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2013.