

SENATE BILL 249

M4

(PRE-FILED)

5lr0033
CF HB 114

By: **Chair, Education, Energy, and the Environment Committee (By Request – Departmental – Agriculture)**

Requested: October 7, 2024

Introduced and read first time: January 8, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Pesticide and Pest Control – Revisions to Pesticide Applicator’s Law and Repeal**
3 **of Obsolete Provisions**

4 FOR the purpose of establishing requirements for the commercial application of general
5 use pesticides, the commercial application of restricted use pesticides, and the
6 private application of restricted use pesticides; requiring a certified private
7 applicator to ensure that certain individuals working under the certified applicator’s
8 supervision meet certain requirements; specifying the responsibility and liability of
9 certified applicators for the application of certain pesticides; repealing provisions of
10 law concerning the sale and use of cyclodiene termiticide and antifouling paint
11 containing tributyltin compound; and generally relating to pesticide and pest control.

12 BY repealing and reenacting, without amendments,
13 Article – Agriculture
14 Section 5–201(a), (c), (i), (j), (o), (p), (r), and (s)
15 Annotated Code of Maryland
16 (2016 Replacement Volume and 2024 Supplement)

17 BY repealing
18 Article – Agriculture
19 Section 5–209 and 5–210.5; and 5–901 through 5–906 and the subtitle “Subtitle 9.
20 Antifouling Paints”
21 Annotated Code of Maryland
22 (2016 Replacement Volume and 2024 Supplement)

23 BY adding to
24 Article – Agriculture
25 Section 5–209
26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2016 Replacement Volume and 2024 Supplement)

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

Article – Agriculture

5–201.

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

(c) “Certified applicator” means a person who is certified by the Secretary under this subtitle.

(i) “Pest control” means engaging in, or offering to engage in, recommending, advertising, soliciting the use of, supervising the use of, or using, a pesticide or a device for the identification, control, eradication, mitigation, detection, inspection, or prevention of a pest in, on, or around any house, building, water, air, land, plant, structure, or animal.

(j) (1) “Pest control applicator” means a person engaged in the business of pest control.

(2) Except as provided by the Secretary, “pest control applicator” includes a person who applies pesticides on any premises where the public is commonly invited for the sale of goods or services.

(o) “Private applicator” means a person who uses a restricted use pesticide for the purpose of producing any agricultural commodity on property owned or rented by the applicator or applicator’s employer.

(p) “Public agency applicator” means a person employed by a unit of federal, State, county or local government or any training institution which is engaged in pest control.

(r) “Restricted use pesticide” means a pesticide so classified by the provisions in this title or by the federal government or the Secretary of Agriculture, State of Maryland.

(s) “Supervision” means, unless otherwise provided by federal or State labeling, the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is:

(1) Responsible for actions of that person; and

(2) Available when needed, though the certified applicator may not be physically present at the time and place the pesticide is applied.

[5–209.

1 Each commercial application of a pesticide shall be under the supervision of a
2 certified pest control applicator or certified public agency applicator who is responsible and
3 liable for the application. Each application of a restricted use pesticide by a certified private
4 applicator shall be done under his supervision, and he is responsible and liable for the
5 application.]

6 **5-209.**

7 (A) IN THIS SECTION, "GENERAL USE PESTICIDE" MEANS A PESTICIDE THAT
8 IS NOT A RESTRICTED USE PESTICIDE.

9 (B) EACH COMMERCIAL APPLICATION OF A GENERAL USE PESTICIDE SHALL
10 BE DONE:

11 (1) BY:

12 (I) A CERTIFIED PEST CONTROL APPLICATOR; OR

13 (II) A CERTIFIED PUBLIC AGENCY APPLICATOR; OR

14 (2) UNDER THE SUPERVISION OF:

15 (I) A CERTIFIED PEST CONTROL APPLICATOR; OR

16 (II) A CERTIFIED PUBLIC AGENCY APPLICATOR.

17 (C) EACH COMMERCIAL APPLICATION OF A RESTRICTED USE PESTICIDE
18 SHALL BE DONE BY:

19 (1) A CERTIFIED PEST CONTROL APPLICATOR; OR

20 (2) A CERTIFIED PUBLIC AGENCY APPLICATOR.

21 (D) (1) EACH PRIVATE APPLICATION OF A RESTRICTED USE PESTICIDE
22 SHALL BE DONE BY:

23 (I) A CERTIFIED PRIVATE APPLICATOR; OR

24 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
25 INDIVIDUAL WORKING UNDER THE DIRECT SUPERVISION OF A CERTIFIED PRIVATE
26 APPLICATOR WHO IS CERTIFIED IN THE SPECIFIC CATEGORY OF APPLICATION
27 BEING UTILIZED BY THE INDIVIDUAL.

1 **(2) A CERTIFIED PRIVATE APPLICATOR SHALL ENSURE THAT ALL OF**
2 **THE REQUIREMENTS SET FORTH IN 40 C.F.R. § 171.201(B)(3) ARE MET BEFORE**
3 **ALLOWING A NONCERTIFIED INDIVIDUAL TO USE A RESTRICTED USE PESTICIDE**
4 **UNDER THE CERTIFIED APPLICATOR'S DIRECT SUPERVISION.**

5 **(E) (1) CERTIFIED PESTICIDE CONTROL APPLICATORS AND PUBLIC**
6 **AGENCY APPLICATORS ARE RESPONSIBLE AND LIABLE FOR THE APPLICATION OF**
7 **GENERAL USE PESTICIDES AND RESTRICTED USE PESTICIDES.**

8 **(2) CERTIFIED PRIVATE APPLICATORS ARE RESPONSIBLE AND**
9 **LIABLE FOR THE APPLICATION OF RESTRICTED USE PESTICIDES.**

10 [5-210.5.

11 (a) In this section, "cyclodiene termiticide" means chlordane (1, 2, 4, 5, 6, 7, 8,
12 8-octachloro-2, 3, 3a, 4, 7, 7a-hexahydro-4, 7-methanoindene), heptachlor (1, 4, 5, 6, 7, 8,
13 8-heptachloro-3a, 4, 7, 7a-tetrahydro-4, 7-methanoindene), aldrin (1, 2, 3, 4, 10,
14 10-hexachloro-1, 4, 4a, 5, 8, 8a-hexahydro-1, 4:5,8-dimethanonaphthalene), and dieldrin
15 (3, 4, 5, 6, 9, 9-hexachloro-1a, 2, 2a, 3, 6, 6a, 7, 7a-octahydro-2, 7:3, 6-dimethanonaphth
16 (2, 3-b) oxirene) and related cyclodiene chemical compounds used for the control of
17 termites.

18 (b) (1) On and after October 1, 1987, each cyclodiene termiticide distributed,
19 sold, or offered for sale in this State shall be classified as a restricted use pesticide.

20 (2) A person may distribute, sell, or offer for sale a cyclodiene termiticide
21 only if:

22 (i) The cyclodiene termiticide is designated as a restricted use
23 pesticide in a manner determined by the Department; and

24 (ii) The purchaser is a:

25 1. Certified pesticide applicator; or

26 2. Registered employee who has completed a course in
27 termiticide application that is approved by the Department.

28 (3) A cyclodiene termiticide applied by a licensee shall be applied only by:

29 (i) A certified pesticide applicator; or

30 (ii) A registered employee who has completed a course in termiticide
31 application that is approved by the Department and is making the application under the
32 direct supervision of a certified pesticide applicator.

1 (c) Before October 1, 1987, the Department shall adopt regulations to carry out
2 the provisions of this section.]

3 [Subtitle 9. Antifouling Paints.]

4 [5-901.

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

6 (b) “Acceptable release rate” means a measured release rate equal to or less than
7 5.0 micrograms per square centimeter per day at steady state conditions determined in
8 accordance with the U.S. Environmental Protection Agency testing procedure, as outlined
9 in the Agency’s call-in notice of July 29, 1986 on tributyltin in antifouling paints under the
10 Federal Insecticide, Fungicide, and Rodenticide Act.

11 (c) “Antifouling paint” means a compound, coating, paint, or treatment applied or
12 used for the purpose of controlling freshwater or marine fouling organisms on vessels.

13 (d) “Commercial boatyard” means:

14 (1) A facility that engages for hire in the construction, storage,
15 maintenance, repair, or refurbishing of vessels; or

16 (2) An independent marine maintenance contractor who engages in any of
17 the activities under paragraph (1) of this subsection.

18 (e) “Tributyltin compound” means any organotin compound that has 3 normal
19 butyl groups attached to a tin atom and with or without an anion, such as chloride, fluoride,
20 or oxide.

21 (f) (1) “Vessel” means a watercraft or other contrivance used as a means of
22 transportation on water, whether self-propelled or otherwise.

23 (2) “Vessel” includes barges and tugs.]

24 [5-902.

25 (a) (1) Except as provided in subsection (b) of this section, a person may not
26 distribute, possess, sell, offer for sale, use, or offer for use any antifouling paint containing
27 a tributyltin compound.

28 (2) A person may not distribute, possess, sell, offer for sale, use, or offer for
29 use any substance that contains a tributyltin compound in concentrated form and that is
30 labeled for mixing with paint by the user to produce an antifouling paint for use on a vessel.

1 (b) (1) A person may distribute or sell an antifouling paint containing a
2 tributyltin compound with an acceptable release rate to the owner or agent of a commercial
3 boatyard.

4 (2) The owner or agent of a commercial boatyard may possess and apply or
5 purchase for application an antifouling paint containing tributyltin with an acceptable
6 release rate, if the antifouling paint:

7 (i) Is applied only within a commercial boatyard; and

8 (ii) Is applied only to vessels exceeding 25 meters in length or that
9 have aluminum hulls.

10 (c) This section does not prohibit the sale, use, distribution, or possession of an
11 antifouling paint containing a tributyltin compound, if the antifouling paint:

12 (1) Is in a spray can of 16 ounces or less;

13 (2) Is commonly referred to as an outboard or lower drive unit paint; and

14 (3) Has an acceptable release rate.]

15 [5-903.

16 This subtitle does not infringe on interstate commerce, and out-of-state vessels that
17 have an antifouling paint containing a tributyltin compound in excess of an acceptable
18 release rate may travel and dock in State waters.]

19 [5-904.

20 The Secretary shall adopt regulations before September 15, 1987 to carry out the
21 provisions of this subtitle.]

22 [5-905.

23 (a) The Department may seize any antifouling paint or any substance described
24 in § 5-902(a)(2) of this subtitle that is held for sale or distribution, used, or possessed in
25 violation of this subtitle.

26 (b) Any antifouling paint or any substance described in § 5-902(a)(2) of this
27 subtitle seized by the Department under this section is deemed forfeited to the State.]

28 [5-906.

29 A person who violates any provision of this subtitle is guilty of a misdemeanor and
30 on conviction is subject to a fine not exceeding \$2,500.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2025.