

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 249 (Chair, Education, Energy, and the Environment
 Committee)(By Request - Departmental - Agriculture)
 Education, Energy, and the Environment

**Pesticide and Pest Control - Revisions to Pesticide Applicator's Law and Repeal
 of Obsolete Provisions**

This departmental bill (1) eliminates the ability for a noncertified individual to do a commercial application of a restricted use pesticide under the supervision of a certified pest control applicator or certified public agency applicator and (2) establishes additional requirements that must be met in order for a noncertified individual to do a private application of a restricted use pesticide under the supervision of a certified private applicator. The bill also repeals provisions governing cyclodiene termiticides and antifouling paint containing a tributyltin compound.

Fiscal Summary

State Effect: Special fund revenues increase by at least \$140,000 annually beginning in FY 2026. Expenditures are not expected to be affected, as discussed below.

| (in dollars) | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 |
|--------------|-----------|-----------|-----------|-----------|-----------|
| SF Revenue | \$140,000 | \$140,000 | \$140,000 | \$140,000 | \$140,000 |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | \$140,000 | \$140,000 | \$140,000 | \$140,000 | \$140,000 |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: The Maryland Department of Agriculture (MDA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

Analysis

Bill Summary:

Restatement of Existing Law without Substantive Change

The bill restates, without substantive change, existing law regarding (1) the commercial application of a “general use pesticide” (defined in the bill as a pesticide that is not a restricted use pesticide) and (2) the responsibility and liability of certified pest control applicators, certified public agency applicators, and certified private applicators.

Application of Restricted Use Pesticides by Noncertified Individuals

The bill makes the following changes with respect to the application of restricted use pesticides by noncertified individuals:

- *Commercial Application* – The bill repeals a provision that allows for the commercial application of a restricted pesticide under the supervision of a certified pest control applicator or certified public agency applicator and instead requires that each commercial application of a restricted use pesticide be done by a certified pest control applicator or certified public agency applicator, eliminating the ability of a noncertified individual to do a commercial application of a restricted use pesticide under the supervision of a certified pest control applicator or certified public agency applicator.
- *Private (Agriculture) Application* – The bill establishes additional requirements that must be met in order for a noncertified individual to do a private application of a restricted use pesticide under the supervision of a certified private (agriculture) applicator: (1) the noncertified individual must be working under the direct supervision of a certified private applicator who is certified in the specific category of application being utilized by the individual; and (2) the certified private applicator must ensure that specified federal requirements (those in 40 C.F.R § [171.201\(b\)\(3\)](#)) are met.

Repeal of Provisions Governing Cyclodiene Termiticides

The bill repeals provisions governing the distribution, sale, offer for sale, and application of cyclodiene termiticides (classified as restricted use pesticides).

Repeal of Provisions Governing Antifouling Paint Containing Tributyltin

The bill repeals provisions governing the distribution, possession, sale, offer for sale, use, or offer for use of antifouling paint containing a tributyltin compound (and any substance that contains a tributyltin compound in concentrated form labeled for mixing with paint by the user to produce an antifouling paint for use on a vessel).

Current Law:

Pesticide Application

Certified Applicators

Under the Pesticide Applicator's Law, (1) each pest control applicator or public agency applicator must obtain an annual certificate indicating competence in one or more established categories from the Secretary of Agriculture (see the categories established in COMAR [15.05.01.08A](#)) and (2) each private (agriculture) applicator must obtain a certificate requiring periodic renewal as determined by the Secretary (every three years – see COMAR [15.05.01.07D](#) and E). Applicants for a certificate must pass a written examination, and the Secretary must establish, by rule or regulation, qualifications for certification to assure competence and responsibility in the application of pesticides (see the qualifications established in COMAR [15.05.01.08B](#) and [15.05.01.07](#)).

“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.

“Pest control applicator” means a person engaged in the business of pest control, including, except as provided by the Secretary, a person who applies pesticides on any premises where the public is commonly invited for the sale of goods or services.

“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.

“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.

Pesticide Application under the Supervision of a Certified Applicator

Application under Supervision

Statute requires that each commercial application of a pesticide be under the supervision of a certified pest control applicator or certified public agency applicator who is responsible and liable for the application. Each application of a restricted use pesticide by a certified private applicator must be done under the certified private applicator's supervision, and the certified private applicator is responsible and liable for the application. MDA regulations (COMAR [15.05.02.01C](#)) prohibit a person from using a restricted use pesticide unless the person is a certified applicator or is a person working under the supervision of a certified applicator.

“Restricted use pesticide” means a pesticide classified as a restricted use pesticide by Title 5 of the Agriculture Article (“Pesticide Applicator’s Law”), by the Secretary of Agriculture, or by the federal government.

“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.

Registration and Training of Employees

Each place of business engaged in the business of conducting pest control must obtain an annual license from MDA and each public agency that applies a pesticide must hold an annual permit from MDA, and MDA regulations (COMAR [15.05.01.04](#) and [15.05.01.03A](#)(3) and (4)) require those licensees and permittees to (1) annually register each employee that performs pest control and (2) ensure that each employee, other than a certified applicator, successfully completes a training program approved by MDA within 30 days of employment and before they are registered. An employee who has not successfully completed the training may not perform pest control services unless a certified applicator or registered employee is physically present at the time and place of the pest control service.

Certification/Registration Fees

Certified pest control applicators pay an annual fee, by June 30, of \$75 plus \$25 for each category (*e.g.*, structural, ornamental/turf, agricultural, etc.), in excess of one, in which they are certified. Pest control businesses pay an annual fee, by June 30, of \$30 for each

registered employee. There is no fee for certification as a public agency applicator or for public agencies to register their employees.

Fee revenues are paid into the Pesticide Fund and used for expenses of administering the Pesticide Applicator's Law.

Penalties for Violations of Pesticide Application Requirements

Several penalties can apply to violations of pesticide application requirements: (1) denial, suspension, or revocation of a license, permit, or certificate; (2) civil penalties (§ [5-210.2](#)); and (3) criminal and indemnification penalties (§ [5-211](#)).

Cyclodiene Termiticide

Statute defines "cyclodiene termiticide" to mean various specified chemical compounds and related chemical compounds used for the control of termites. Cyclodiene termiticide distributed, sold, or offered for sale in the State is classified as a restricted use pesticide. It may only be distributed, sold, or offered for sale to, and applied by, (1) a certified pesticide applicator or (2) a registered employee who has completed a course in termiticide application and applies the termiticide under the direct supervision of a certified pesticide applicator.

Antifouling Paints

Statute prohibits the distribution, possession, sale, offer for sale, use, or offer for use of any antifouling paint containing a tributyltin compound (or any substance containing a tributyltin compound in concentrated form that is labeled for mixing with paint by the user to produce an antifouling paint for use on a vessel), with the exception of (1) the distribution or sale of specified antifouling paint containing a tributyltin compound to the owner or agent of a commercial boatyard and (2) the possession and specified application of the paint by the owner or agent. The prohibition also does not apply to certain antifouling paint commonly referred to as an outboard or lower drive unit paint, in spray cans of 16 ounces or less. "Antifouling paint" means a compound, coating, paint, or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.

Background:

Application of Restricted Use Pesticides

MDA indicates that the bill's provisions addressing the application of restricted use pesticides reflect the department's plan, approved by the U.S. Environmental Protection

Agency (EPA), to implement EPA regulations (see 40 CFR § [171.303\(a\)\(7\)](#)) that require states to either (1) impose specified standards for noncertified pesticide applicators to apply restricted use pesticides under the direct supervision of a certified applicator (including annual training) or (2) not permit the use of restricted use pesticides by noncertified applicators. MDA’s plan adopts the second option.

MDA indicates that allowing for the application of restricted use pesticides under the (direct) supervision of a certified private (agriculture) applicator to continue, subject to additional requirements, is intended to reflect a partial exemption for those applications, under MDA’s EPA-approved plan, from the more stringent requirements applicable to commercial applications. Under the federal requirements that must be complied with for those applications (40 C.F.R § [171.201\(b\)\(3\)](#)), annual training is not required and “direct supervision” does not require the physical presence of the certified private applicator (unless required by product labeling) at the site of the application; however, the noncertified applicator must have the ability to immediately communicate with the certified applicator.

Cyclodiene Termiticide and Antifouling Paints

MDA indicates that cyclodiene termiticide and antifouling paints containing a tributyltin compound are no longer in use, making the provisions in State law governing them obsolete.

State Revenues: Special fund revenues increase by at least \$140,000 annually beginning in fiscal 2026 due to the collection of additional fees. The estimate reflects the following assumptions:

- a minimum of 2,000 individuals who are registered employees of pest control businesses instead become certified pest control applicators under the bill, in order to continue applying restricted use pesticides (this reflects MDA’s estimate that there are at least 6,000 registered employees currently and at least one-third of those registered employees seek to become certified under the bill);
- the number of individuals who maintain certifications (under the bill) instead of registrations (in the absence of the bill) remains at least 2,000 in future years;
- those individuals, on average, become certified in at least two categories of pest control (based on MDA’s indication that it is common for certified pest control applicators to be certified in more than one category); and
- the fee revenue that MDA receives from each of those individuals increases in fiscal 2026 and future years from \$30 (the annual registration fee) to \$100 (the annual \$75 fee for certification in one category plus \$25 for certification in an additional category), a total increase in revenue per individual of \$70.

State Expenditures: MDA advises that it can handle administering the exams and any other additional administrative processing work related to certifying, instead of registering, a minimum of 2,000 individuals before the bill's effective date of October 1, 2025.

Based on responses from the Maryland Department of Transportation and the Department of Natural Resources, and the fact that there is no fee for public agency registered employees or certified public agency applicators, compliance with the bill is expected to be handled with existing resources by State agencies that apply pesticides.

Small Business Effect: MDA indicates that the bill has minimal impact on small businesses because (1) pest control businesses in the State have known about the EPA regulations mentioned above (under Background) and MDA's intention to comply with the regulations by requiring individuals to be certified in order to apply restricted use pesticides for a number of years; (2) if needed, most have already increased the number of certified applicators on their staff; and (3) the increased cost to certify, instead of register, an employee is \$45 per year.

DLS disagrees with MDA and advises that pest control small businesses that currently use noncertified applicators to apply restricted use pesticides under the supervision of a certified pest control applicator may be meaningfully affected. The DLS estimate of the State fiscal impact (under State Fiscal Effect) assumes the increased cost per individual, on average, is \$70 instead of \$45 (accounting for an additional \$25 fee for certification in an additional category), and the Maryland State Pest Control Association indicates that additional costs can be incurred. For example, individuals who do not have existing experience (one year as a full-time registered employee) or education that meet MDA's requirements can incur costs of up to \$300 to take an online course approved by MDA in order to meet the experience/education requirements. Businesses that pay these fees and education costs on behalf of their employees presumably could be meaningfully affected by the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 114 (Chair, Environment and Transportation Committee)(By Request - Departmental - Agriculture) - Environment and Transportation.

Information Source(s): Calvert, Howard, and Prince George's counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the

Courts); Maryland Department of Agriculture; Department of Natural Resources; Maryland Department of Transportation; Maryland State Pest Control Association; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2025
km/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Pesticide and Pest Control - Revisions to Pesticide Applicator's Law and Repeal of Obsolete Provisions

BILL NUMBER: SB 249

PREPARED BY: Robert Hofstetter

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Pest control businesses are currently required to have certified applicators on staff. In addition, pest control businesses have known about the changes to the federal Rule since 2017/2018. If needed, most have already added additional certified individuals from within their business.

To move a person from a registered employee (non-certified applicator) to a certified applicator the business, or applicator, would incur extra fees of \$45.00/year.