

SFA

BILL ANALYSIS

MAR 6 1988

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

Michigan State Library

Senate Bill 406 (as reported without amendment)**Sponsor: Senator Vern Ehlers****Committee: Natural Resources and Environmental Affairs****Date Completed: 11-19-87****RATIONALE**

Chlordane is a pesticide used to control termites. It is a member of a family of chemicals known as the chlorinated cyclodienes. Since 1978, the only legal use of Chlordane was termite control, and the pesticide has in recent years been applied in a subterranean manner around homes and home sites. The Environmental Protection Agency (EPA) and the Michigan Department of Agriculture (MDA) both register particular chemicals shown to be effective against specific pests for use in pesticide products. The EPA recently evaluated the potential human toxicity of Chlordane in a special review of the EPA's registration for use of the chemical. Based on data submitted by the Velsicol Chemical Corporation, the sole manufacturer of Chlordane, the EPA determined that residues of Chlordane in the indoor air of homes treated with the chemical exceed levels associated with an acceptable risk to human health.

On August 11, 1987, the Velsicol Corporation negotiated an agreement with the EPA to suspend sales of Chlordane. Termiticide products already in distribution are not affected by the suspension of sales. Under the agreement, Velsicol has ceased sale of the chemical, and has been given up to seven years to conduct tests that will demonstrate that Chlordane termiticides can be applied without leaving residues in indoor air. The EPA may lift the suspension of sales if these tests are successful. In exchange for the temporary suspension and required testing, the EPA has agreed not to pursue cancellation proceedings against Chlordane.

On November 6, 1987, the MDA, under the authority of the Pesticide Control Act, suspended the registration for Chlordane in the State. The suspension effectively bans both the sale and use of Chlordane. A permanent suspension cannot be undertaken by the MDA until hearings have been completed.

Some feel that despite EPA and MDA efforts to suspend the use of Chlordane, the potential threat to human health is such that a statutory prohibition against the use of this chemical in the State is needed.

CONTENT

The bill would amend the Pesticide Control Act to prohibit the Director of the Department of Agriculture from registering the pesticide commonly known as "Chlordane", and to require the Director to cancel any registration in effect for that pesticide. Currently, the Act allows the Director to refuse to register, or to cancel or suspend registration of a pesticide under certain circumstances.

MCL 286.560

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

Application of Chlordane in and around homes and occupied buildings has resulted in the presence of Chlordane in the ambient air, which can continue to be present at the application site for a period exceeding 25 years. Chlordane is known to cause cancer in laboratory animals and has caused liver malfunction in test animals. The EPA determined that chlorinated cyclodienes are probably human carcinogens. Since alternative products do exist which are effective as termiticides but do not have the persistence of Chlordane in the environment, there is no reason to continue to allow the use of this potentially harmful chemical.

Supporting Argument

Uses of Chlordane within the Great Lakes basin has resulted in bioaccumulation of Chlordane components in a number of species of Great Lakes fish. At times there have been residues in the edible portions of many valuable sport and commercial fish species which have exceeded levels considered fit for sale in commercial channels, while sport fish with excess levels have been placed on the fish consumption advisory list by the Department of Public Health. Chlordane contamination of Great Lakes fish has had a negative impact on both the sport and commercial fishery of the Great Lakes. Consumption of contaminated fish by humans and fish-eating birds and mammals can increase the risk of getting cancer and may cause other adverse health effects.

Response: Environmental concerns over the use of Chlordane are based upon obsolete use patterns, and would not be addressed by this bill. Alarms have been raised over Chlordane levels found in Great Lakes fish in the last fifteen years. Chlordane levels in Great Lakes fish are due to discontinued agricultural applications as a general use pesticide which are currently prohibited by the Chlordane label. It is inconceivable that current use is contributing at all to such former pollution, given the localized treatment methods and quantities of Chlordane used in termite control. This bill would not solve those continuing pollution concerns, as the source of any such pollution has already been shut off.

Supporting Argument

The bill would provide a more certain guarantee that

S.B. 406 (11-19-87)

Chlordane would be kept off the market to prevent this chemical from threatening human health and the environment. The compromise developed between Velsicol Corporation and the EPA is unacceptable. Under the agreement, required tests could be completed as early as May of 1988, allowing Chlordane to be back on the market in Michigan by July of 1988. As a preliminary measure the MDA suspension is a right and proper response to the problem, but could be vulnerable to appeal and legal challenges. The surest and best way to safeguard the State against the potential harmful use of this chemical is to place in statute a prohibition against its use.

Opposing Argument

The bill is superfluous, since use of Chlordane in Michigan will stop whether or not the Legislature acts on it. Surveys of distributors of Chlordane in the market show that supplies have been exhausted for several months, and will not be replenished, and that pest control operators' supplies of Chlordane are minimal. In fact, homeowners' supplies of Chlordane today probably exceed those in the hands of trained professionals. Since the EPA's action, the Michigan Pest Control Association has recommended to its members that they not use remaining stocks on treatment of existing homes, but rather use them on treatments of buildings prior to construction, as this is logically the safest use. This recommendation is being heeded. In effect, the EPA's action already will have virtually halted 40 years of use of Chlordane in this State before this bill can be enacted, making this legislation unnecessary.

Opposing Argument

This bill would prohibit all future use of Chlordane as a pesticide, even if future research proves that it can be used safely under specific conditions. Public concern about Chlordane use is largely based on a few current use patterns and formulations, notably treatment of existing structures from inside and out. But there is ongoing research on pre-treatment exposure results and new application methods which may show that Chlordane safety concerns will be adequately addressed by modifying the product label and use instructions. This bill would not allow the Director of the Department of Agriculture the latitude to register Chlordane, even if proven safe. To reinstate Chlordane under these conditions would require additional legislative action, if this bill were enacted.

Opposing Argument

This bill would set a bad precedent in pesticide regulation by transferring regulation from the hands of scientists to shifting popular whim. Matters of such importance as public health and pesticide regulation must be regulated with a keen, understanding eye to the science of these matters. Frequently, public perceptions of scientific matters are totally inaccurate, due to misinformation or misunderstanding of the scientific issues and impacts. This is the reason matters such as pesticide regulation are left to regulators with the experience and scientific understanding to make reasoned judgments on the merits or dangers of specific pesticides. It is neither fair nor proper to subject the fate of specific useful pesticides, or similarly, medicines or foods, to the whims of a public or legislative body that lacks the information or scientific background to evaluate the facts fully. This would set a precedent that would bode poorly for the public health and well being and involve the Legislature needlessly in decisions on every pesticide used in our State.

Legislative Analyst: B. Baker
Fiscal Analyst: A. Rich

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.