

HOUSE BILL No. 5881

June 1, 1992, Introduced by Reps. Bennane, Baade, Gire, Berman, Bartnik, DeMars, Anthony, Olshove, Yokich and Bodem and referred to the Committee on Social Services and Youth.

A bill to amend sections 11, 13, 13a, and 13b of Act No. 171 of the Public Acts of 1976, entitled as amended

"Pesticide control act,"

section 13 as amended and sections 13a and 13b as added by Act No. 449 of the Public Acts of 1988, being sections 286.561, 286.563, 286.563a, and 286.563b of the Michigan Compiled Laws; and to add section 13d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11, 13, 13a, and 13b of Act No. 171 of
2 the Public Acts of 1976, section 13 as amended and sections 13a
3 and 13b as added by Act No. 449 of the Public Acts of 1988, being
4 sections 286.561, 286.563, 286.563a, and 286.563b of the Michigan
5 Compiled Laws, are amended and section 13d is added to read as
6 follows:

1 Sec. 11. (1) A person who is a restricted use pesticide
2 dealer shall obtain an annual license for each business
3 location. The license shall expire on December 31. The annual
4 license fee of \$50.00 shall accompany the application for license
5 together with other pertinent information the director may
6 require. The license fee shall be credited to the general fund
7 of the state.

8 (2) Application shall be made by a person in charge of each
9 business location who shall demonstrate to the director his OR
10 HER knowledge of the laws and rules governing the use and sale of
11 restricted use pesticides, and his OR HER responsibility in car-
12 rying on the business of a restricted use pesticide dealer. This
13 demonstration shall be made with a written examination prescribed
14 by the director.

15 (3) A restricted use pesticide dealer shall forward to the
16 director, as required by rule, a record of all sales of
17 restricted use pesticides on forms provided by the director.
18 Duplicate copies of the records shall be kept on file by the
19 restricted use pesticide dealer, subject to inspection by an
20 authorized agent of the director, for 2 years after the date of
21 sale. The information contained in the individual reports filed
22 with the director by licensees pursuant to this section —
23 shall, upon request, be supplied in summary form to other state
24 agencies, except that the information regarding a pesticide for
25 which a patent is in force may not be made available to the
26 public if, in the discretion of the director, release of that
27 information would tend to have a significant adverse effect on

1 the competitive position of the dealer, distributor, or
2 manufacturer. The summary shall include the name and address of
3 the restricted use pesticide dealer, the name and address of the
4 purchaser, the name of the pesticide sold, and, in an emergency,
5 the quantity sold.

6 (4) A restricted use pesticide shall be sold or distributed
7 only by a licensed restricted use pesticide dealer for use by
8 applicators certified under this act.

9 (5) A restricted use pesticide dealer's license is subject
10 to denial, suspension, or revocation for a violation of this sec-
11 tion, ~~or~~ rules promulgated under this section, OR UPON A FIND-
12 ING OF CHILD SUPPORT ARREARAGE AS DESCRIBED IN SECTION 13D IN THE
13 MANNER PRESCRIBED IN THAT SECTION, whether committed by the
14 dealer or by the dealer's officer, agent, or employee.

15 Sec. 13. (1) Satisfactory completion of certification
16 requirements prescribed by the director and categorized according
17 to the various types of pesticide applications prescribed by rule
18 and consistent with the regulations of EPA shall be a prerequi-
19 site for certification.

20 (2) Application for a private agricultural applicator cer-
21 tificate or a commercial applicator certificate shall be on a
22 form provided by the director and contain information regarding
23 the applicant's qualifications and proposed operations, type of
24 equipment to be used by the applicant, and other information con-
25 sidered to be pertinent by the director.

1 (3) An application for a private agricultural applicator
2 certificate or a commercial applicator certificate shall be
3 accompanied by the appropriate fee as provided in section 14.

4 (4) If an applicant complies with the certification require-
5 ments, the director shall issue a certificate which signifies
6 that the applicant is a certified private agricultural applicator
7 or a certified commercial applicator.

8 (5) A private agricultural applicator certificate or a com-
9 mercial applicator certificate may restrict an applicant to use a
10 certain type of equipment or pesticide if the director finds that
11 the applicant is qualified to use only that type.

12 (6) The director may refuse to issue a private agricultural
13 applicator certificate or a commercial applicator certificate or
14 renewal of a certificate if an applicant demonstrates an insuffi-
15 cient knowledge of any item called for in the application, has
16 unsatisfied judgments against him or her, or if the equipment to
17 be used by the applicant is unsafe or inadequate to accomplish
18 the proper application of the pesticides to be used.

19 (7) If an applicant is not issued a private agricultural
20 applicator certificate or a commercial applicator certificate
21 under this section, the director shall inform the applicant in
22 writing of the reasons ~~therefor~~ FOR NOT ISSUING THE LICENSE.

23 (8) The director may at any time deny, revoke, or suspend a
24 private agricultural applicator certificate or a commercial
25 applicator certificate for a violation of this act, ~~or~~ a viola-
26 tion of an order issued under this act, ~~or~~ upon conviction
27 under section 14 of the FIFRA, ~~or~~ upon conviction under a state

1 pesticide law of a reciprocating state in accordance with
2 section 16, OR UPON A FINDING OF CHILD SUPPORT ARREARAGE AS
3 DESCRIBED IN SECTION 13D.

4 Sec. 13a. (1) A commercial applicator who advertises in any
5 form or who holds himself or herself out to the public as being
6 in the business of applying either general use or restricted use
7 pesticides shall obtain a commercial applicator license for each
8 place of business and shall comply with the requirements of this
9 section before engaging in business.

10 (2) Beginning ~~on the effective date of this section~~
11 DECEMBER 27, 1988, a commercial applicator required to be
12 licensed by subsection (1) shall be certified under section 13
13 and shall have at least 1 of the following in order to qualify
14 for a license under this section:

15 (a) Service for not less than 2 years as an employee of 1 or
16 more commercial applicators, or a person with comparable
17 experience as determined by the director, during which period the
18 employee receives training and obtains experience in the applica-
19 tion of pesticides under the supervision of a commercial
20 applicator.

21 (b) A baccalaureate degree from a recognized college or uni-
22 versity in a discipline that provides education regarding pests
23 and the control of pests and 1 year of service as an employee of
24 1 or more commercial applicators, or a person with comparable
25 experience as determined by the director, during which period the
26 employee receives training and obtains experience in the

1 application of pesticides under the supervision of a commercial
2 applicator.

3 (c) A commercial applicator license issued under this act
4 before ~~the effective date of this section~~ DECEMBER 27, 1988.

5 (3) An application for a commercial applicator license shall
6 be on a form provided by the director and contain information
7 regarding the applicant's qualifications and proposed operations,
8 the type of equipment to be used by the applicant, and other
9 information considered pertinent by the director.

10 (4) An application for a commercial applicator license shall
11 be accompanied by the appropriate fee as provided in section
12 14(2).

13 (5) An application for a commercial applicator license shall
14 be accompanied by proof of sufficient financial responsibility as
15 prescribed by rule.

16 (6) A commercial applicator license may restrict the appli-
17 cant to use a certain type of equipment or pesticide if the
18 director finds that the applicant is qualified to use only that
19 type.

20 (7) The director may refuse to issue or renew a commercial
21 applicator license if the applicant demonstrates an insufficient
22 knowledge of an item called for in the application, has unsatis-
23 fied judgments against him or her, or if the equipment to be used
24 by the applicant is unsafe or inadequate to accomplish the proper
25 application of the pesticides to be used.

26 (8) If an applicant is not issued a commercial applicator
27 license under this section, the director shall inform the

1 applicant in writing of the reasons that the license was not
2 issued.

3 (9) The director may at any time deny, revoke, or suspend a
4 commercial applicator license for a violation of this act, ~~or~~ a
5 violation of an order issued under this act, ~~or~~ upon conviction
6 under this act, FIFRA, ~~or~~ UPON CONVICTION UNDER a state pesti-
7 cide law of a reciprocating state in accordance with section 16,
8 OR UPON A FINDING OF CHILD SUPPORT ARREARAGE DESCRIBED IN
9 SECTION 13D.

10 Sec. 13b. (1) Commencing 3 months after promulgation of the
11 rules required under section 19, it shall be a violation of this
12 act for a person to apply any pesticide for a commercial purpose
13 or to apply any pesticide as a scheduled and required work
14 assignment in the course of his or her employment on the property
15 of another for any purpose other than a private agricultural pur-
16 pose unless that person is either a certified applicator or a
17 registered applicator.

18 (2) To be eligible to be a registered applicator, an appli-
19 cant shall do all of the following:

20 (a) Complete a training program that has been approved by
21 the director and is conducted by a trainer who has the minimum
22 qualifications established by rule. Registration requirements
23 for applicators who apply pesticides only for private agricul-
24 tural purposes may provide optional methods of training and test-
25 ing as provided in section 12(1). The training program shall be
26 designed to facilitate and encourage persons who apply pesticides

1 for private agricultural purposes to become registered
2 applicators.

3 (b) Pass a test that is approved by the director and is
4 administered by the director's designee.

5 (c) Possess either a valid temporary registration certifi-
6 cate issued by the director's designee or a valid registration
7 card issued by the director.

8 (3) If an applicant successfully completes an approved
9 training program and passes a test that is administered by the
10 director's designee as a requirement of that training program, a
11 trainer shall issue a temporary registration to an applicant. A
12 temporary registration is only valid from the time it is issued
13 until the applicant receives a registration card from the
14 director. An applicant may receive a valid registration card
15 upon payment of the fee provided for in section 14(3) and when
16 the director's designee submits to the director a program comple-
17 tion form that is signed and dated by the trainer and by the
18 applicant stating that the required training program has been
19 provided and received and indicating that the applicant has
20 passed the required test. The program completion form shall be
21 promptly submitted as soon as the director's designee issues a
22 temporary registration.

23 (4) A registered applicator may apply a pesticide that is
24 not a restricted use pesticide under the supervision of a certi-
25 fied applicator and may apply a restricted use pesticide when
26 under the direct supervision of a certified applicator. In
27 addition, during a registered applicator's initial 3-year

1 registration, a registered applicator may apply categories of
2 restricted use pesticides while not directly supervised after the
3 registered applicator has applied that category of restricted use
4 pesticide under direct supervision for the number of hours
5 required by the director unless prohibited by a label.

6 (5) A registered applicator who applies general use pesti-
7 cides only for a private agricultural purpose or is not employed
8 by a commercial applicator and who applies general use pesticides
9 as a scheduled and required work assignment in the course of his
10 or her employment shall be exempt from the provisions of this act
11 requiring supervision by a certified applicator when that regis-
12 tered applicator applies general use pesticides.

13 (6) The employer of a registered applicator shall maintain a
14 record of the hours and location of directly supervised hours of
15 application of restricted use pesticide by each registered appli-
16 cator for the duration of the restricted applicator's employment
17 and for 3 years following the termination of that person's
18 employment. In addition, when a registered applicator has
19 applied a category of restricted use pesticides while directly
20 supervised for the length of time required by the director, the
21 employer of the applicator may notify the director. Upon notifi-
22 cation, the director shall forward a sticker or symbol to the
23 employer that shall be attached to the registered applicator's
24 registration card.

25 (7) A registered applicator who is applying any pesticide
26 shall display his or her registration card upon the request of an
27 employee of the department of agriculture.

1 (8) A registered applicator shall complete a refresher
2 training program every 3 years to be eligible to renew his or her
3 registration.

4 (9) The director may at any time deny, revoke, or suspend a
5 certification or registration for a violation of this act, ~~or~~ a
6 violation of an order issued under this act, ~~or~~ upon conviction
7 under this act or FIFRA, ~~or~~ upon conviction under a state pes-
8 ticide law of a reciprocating state in accordance with section
9 16, OR UPON A CONVICTION OF THE TYPE DESCRIBED IN SECTION 13D.

10 (10) The director shall develop and provide the documents
11 and forms necessary to implement this section.

12 SEC. 13D. (1) SUBJECT TO SUBSECTION (2), UPON RECEIPT OF A
13 NOTICE FROM THE OFFICE OF THE FRIEND OF THE COURT STATING THAT AN
14 INDIVIDUAL REGULATED BY THIS ACT IS AT LEAST 3 MONTHS IN ARREARS
15 OF SUPPORT, THE DIRECTOR SHALL SUSPEND THE LICENSE, CERTIFICATE,
16 OR REGISTRATION OF AN INDIVIDUAL AFTER ALL OF THE FOLLOWING
17 OCCUR:

18 (A) THE DIRECTOR SENDS A NOTICE FOR A HEARING TO BE SCHED-
19 ULED NOT LESS THAN 30 DAYS AFTER THE DATE THE NOTICE IS SENT TO
20 THE INDIVIDUAL'S ADDRESS AS INDICATED IN THE DIRECTOR'S RECORDS.

21 (B) THE INDIVIDUAL FAILS TO PRESENT PROOF ACCEPTABLE TO THE
22 DIRECTOR THAT THE ARREARAGE HAS BEEN PAID.

23 (2) IF AT THE HEARING THE DIRECTOR DETERMINES THAT EXTREME
24 HARDSHIP TO THE INDIVIDUAL OR PERSONS THE INDIVIDUAL SERVES WOULD
25 BE CREATED BY THE SUSPENSION, THE DIRECTOR SHALL NOT SUSPEND THE
26 LICENSE, CERTIFICATE, OR REGISTRATION AND SHALL CONDITION THE

1 HOLDING OF THE LICENSE, CERTIFICATE, OR REGISTRATION UPON
2 COMPLIANCE WITH THE SUPPORT ORDER.

3 (3) THE ONLY ISSUES TO BE CONSIDERED BY THE DIRECTOR ARE
4 WHETHER THE INDIVIDUAL IS THE HOLDER OF A LICENSE, CERTIFICATE,
5 OR REGISTRATION AND WHETHER THE INDIVIDUAL HAS PRESENTED PROOF
6 ACCEPTABLE TO THE DIRECTOR THAT ARREARAGE HAS BEEN PAID.