



SENATE BILL No. 675

June 2, 1993, Introduced by Senators GOUGEON, CISKY and MC MANUS and referred to the Committee on Agriculture and Forestry.

A bill to amend the title and sections 3, 4, 5, 7, 8, 11, 12, and 19 of Act No. 171 of the Public Acts of 1976, entitled as amended

"Pesticide control act,"

sections 3, 4, 5, 7, 8, 12, and 19 as amended by Act No. 449 of the Public Acts of 1988, being sections 286.553, 286.554, 286.555, 286.557, 286.558, 286.561, 286.562, and 286.569 of the Michigan Compiled Laws; and to add sections 18a and 18b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 4, 5, 7, 8, 11, 12,
2 and 19 of Act No. 171 of the Public Acts of 1976, sections 3, 4,
3 5, 7, 8, 12, and 19 as amended by Act No. 449 of the Public Acts
4 of 1988, being sections 286.553, 286.554, 286.555, 286.557,
5 286.558, 286.561, 286.562, and 286.569 of the Michigan Compiled

1 Laws, are amended and sections 18a and 18b are added to read as
2 follows:

3 TITLE

4 An act to require registration of, and to regulate the dis-
5 tribution, labeling, and application of pesticides; to license
6 pesticide dealers; to register and certify certain applicators;
7 to prescribe the powers and duties of certain state agencies; to
8 create an advisory committee; to create a fund and provide for
9 expenditures from that fund; TO PROVIDE FOR THE PROTECTION OF
10 GROUNDWATER FROM PESTICIDE CONTAMINATION; to provide certain
11 defenses in certain civil actions; to prescribe penalties and
12 provide remedies; and to repeal certain acts and parts of acts.

13 Sec. 3. (1) "Active ingredient" means an ingredient which
14 will prevent, destroy, repel, or mitigate pests, or which will
15 act as a plant regulator, defoliant, or desiccant or otherwise
16 alter the behavior of plants or products.

17 (2) "ACTIVITY PLAN" MEANS A PLAN FOR THE MITIGATION OF
18 GROUNDWATER CONTAMINATION AT A SPECIFIC LOCATION, INCLUDING A
19 TIME FRAME FOR IMPLEMENTATION.

20 (3) ~~-(2)-~~ "Adulterated" applies to a pesticide if its
21 strength or purity is less than, or significantly greater than,
22 the professed standard or quality as expressed on its labeling or
23 under which it is sold; if a substance was substituted wholly or
24 in part for a pesticide; or if a valuable constituent of the pes-
25 ticide was wholly or in part abstracted.

1 (4) ~~-(3)-~~ "Agricultural commodity" means a plant or part
2 thereof, or an animal or animal product produced primarily for
3 sale, consumption, propagation, or other use by man or animals.

4 (5) ~~-(4)-~~ "Animal" means all vertebrate and invertebrate
5 species, including, but not limited to, human beings and other
6 mammals, birds, fish, and shellfish.

7 (6) "AQUIFER" MEANS A GEOLOGIC FORMATION, A GROUP OF FORMA-
8 TIONS, OR PART OF A FORMATION CAPABLE OF YIELDING A SIGNIFICANT
9 AMOUNT OF GROUNDWATER TO WELLS OR SPRINGS.

10 (7) "AQUIFER SENSITIVITY" MEANS A HYDROGEOLOGIC FUNCTION
11 REPRESENTING THE INHERENT ABILITIES OF MATERIALS SURROUNDING THE
12 AQUIFER TO ATTENUATE THE MOVEMENT OF PESTICIDES OR NITROGEN FER-
13 TILIZERS INTO THAT AQUIFER.

14 (8) ~~-(5)-~~ "Avicide" means a substance or mixture of sub-
15 stances for preventing, destroying, repelling, or mitigating pest
16 birds.

17 (9) ~~-(6)-~~ "Certified applicator" means a person authorized
18 under this act to use and supervise the use of a restricted use
19 pesticide.

20 (10) ~~-(7)-~~ "Commercial applicator" means a person who is not
21 a private agricultural applicator, whether that person is a pri-
22 vate agricultural applicator with respect to some uses or not,
23 and who uses or supervises the use of a restricted use pesticide
24 or who holds himself or herself out to the public as being in the
25 business of applying pesticides.

26 (11) "CONFIRMED CONTAMINANT" MEANS A CONTAMINANT THAT HAS
27 BEEN DETECTED IN AT LEAST 2 GROUNDWATER SAMPLES COLLECTED FROM

1 THE SAME GROUNDWATER SAMPLING POINT AT AN INTERVAL OF GREATER
2 THAN 14 DAYS.

3 (12) "CONTAMINANT" MEANS ANY PESTICIDE ORIGINATED CHEMICAL,
4 RADIONUCLIDE, ION, SYNTHETIC ORGANIC COMPOUND, MICROORGANISM OR
5 WASTE THAT DOES NOT OCCUR NATURALLY IN GROUNDWATER OR THAT NATU-
6 RALLY OCCURS AT A LOWER CONCENTRATION THAN DETECTED.

7 (13) "CONTAMINATION" MEANS THE DIRECT OR INDIRECT INTRODUC-
8 TION INTO GROUNDWATER OF ANY CONTAMINANT CAUSED IN WHOLE OR IN
9 PART BY HUMAN ACTIVITY.

10 Sec. 4. (1) "Defoliant" means a substance or mixture of
11 substances intended for causing the leaves or foliage to drop
12 from a plant, with or without causing abscission.

13 (2) "Desiccant" means a substance or mixture of substances
14 intended for artificially accelerating the drying of plant
15 tissue.

16 (3) "Device" means an instrument or contrivance, other than
17 a firearm, which is intended for trapping, destroying, repelling,
18 or mitigating a pest; but does not include equipment used for the
19 application of pesticides when sold separately.

20 (4) "Direct supervision" means that a certified applicator
21 is supervising the application of a pesticide and is physically
22 present at the time and place the pesticide is being applied.
23 However, direct supervision by a private agricultural applicator
24 who is supervising the application of a restricted use pesticide
25 for an agricultural purpose means that a certified applicator
26 shall either be in the same field or at the same location with
27 that applicator as he or she applies the restricted use pesticide

1 or that the private agricultural applicator supervises at all
2 times the applicator and directly supervises representative
3 aspects of each initial application process on an agricultural
4 commodity or agricultural structure, including the calibration,
5 mixing, application, operator safety, and disposal aspects of the
6 process.

7 (5) "Director" means the director of the department of agri-
8 culture or his or her authorized representative.

9 (6) "Distribute" means to offer for sale, hold for sale,
10 sell, barter, ship, deliver for shipment, or receive and having
11 so received deliver or offer to deliver, pesticides in this
12 state.

13 (7) "ENVELOPE MONITORING" MEANS MONITORING OF GROUNDWATER IN
14 AREAS ADJACENT TO PROPERTIES WHERE GROUNDWATER IS CONTAMINATED TO
15 DETERMINE THE CONCENTRATION AND SPATIAL DISTRIBUTION OF THE CON-
16 TAMINANT IN THE AQUIFER.

17 (8) ~~-(7)-~~ "Environment" includes water, air, land, and all
18 plants and human beings and other animals living therein, and the
19 interrelationships which exist among them.

20 (9) ~~-(8)-~~ "EPA" means the United States environmental pro-
21 tection agency.

22 (10) ~~-(9)-~~ "FIFRA" means the federal insecticide, fungicide,
23 and rodenticide act, chapter 125, 61 Stat. 163, 7 U.S.C. 136 to
24 136y.

25 (11) ~~-(10)-~~ "Fungi" means all nonchlorophyll bearing thallo-
26 phytes, that is, all nonchlorophyll bearing plants of a lower
27 order than mosses and liverworts, as for example, rusts, smuts,

1 mildews, molds, yeasts, and bacteria, except those in or on other
2 animals, and except those in or on processed foods, beverages, or
3 pharmaceuticals.

4 (12) "GROUNDWATER" MEANS UNDERGROUND WATER WITHIN THE ZONE
5 OF SATURATION.

6 (13) "GROUNDWATER PROTECTION RULE" MEANS A RULE PROMULGATED
7 UNDER THIS ACT THAT DEFINES A MINIMUM OPERATIONAL STANDARD FOR
8 STRUCTURES, ACTIVITIES, AND PROCEDURES THAT MAY HAVE OR MAY CON-
9 TRIBUTE TO THE CONTAMINATION OF GROUNDWATER AND THAT DEFINES THE
10 SCOPE OF A GROUNDWATER PROTECTION RULE, THE REGION OF IMPLEMENTA-
11 TION OF A GROUNDWATER PROTECTION RULE, AND IMPLEMENTATION PERIOD
12 FOR THOSE RULES. AS USED IN THIS SUBSECTION:

13 (A) "STRUCTURES, ACTIVITIES, AND PROCEDURES" INCLUDE, BUT
14 ARE NOT LIMITED TO, MIXING, LOADING, AND RINSE PADS, APPLICATION
15 EQUIPMENT, APPLICATION TIMING, APPLICATION RATES, CROP ROTATION,
16 AND PEST CONTROL THRESHOLDS.

17 (B) "THE SCOPE OF A GROUNDWATER PROTECTION RULE" MAY DEFINE
18 A PARTICULAR PESTICIDE, STRUCTURE, ACTIVITY, OR PROCEDURE OR MAY
19 DEFINE PESTICIDES CONTAINING SPECIFIC INGREDIENTS.

20 (C) "THE REGION OF IMPLEMENTATION OF A GROUNDWATER PROTEC-
21 TION RULE" MAY INCLUDE SPECIFIC SOIL TYPES OR AQUIFER SENSITIVITY
22 REGIONS OR OTHER GEOGRAPHIC BOUNDARY.

23 (14) "GROUNDWATER RESOURCE PROTECTION LEVEL" MEANS A MAXIMUM
24 CONTAMINANT LEVEL AS ESTABLISHED BY THE UNITED STATES ENVIRONMEN-
25 TAL PROTECTION AGENCY OR, IF THE UNITED STATES ENVIRONMENTAL PRO-
26 TECTION AGENCY HAS NOT ESTABLISHED A MAXIMUM CONTAMINANT LEVEL, A
27 LEVEL ESTABLISHED BY THE DIRECTOR OF PUBLIC HEALTH USING THE

1 PROTOCOL DEFINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
2 AGENCY FOR ESTABLISHING MAXIMUM CONTAMINANT LEVELS.

3 (15) "GROUNDWATER RESOURCE RESPONSE LEVEL" MEANS A NUMERICAL
4 VALUE EXPRESSING THE CONCENTRATION OF A SUBSTANCE IN GROUNDWATER
5 THAT IS 30% OF THE SUBSTANCES GROUNDWATER RESOURCE PROTECTION
6 LEVEL.

7 Sec. 5. (1) "Inert ingredient" means an ingredient which is
8 not an active ingredient.

9 (2) "Ingredient statement" means:

10 (a) A statement of the name and percentage of each active
11 ingredient together with the total percentage of the inert ingre-
12 dients in the pesticide.

13 (b) When the pesticide contains arsenic in any form, the
14 ingredient statement shall include percentages of total and water
15 soluble arsenic, each calculated as elemental arsenic.

16 (3) "Insect" means any of the numerous small invertebrate
17 animals generally having the body more or less obviously segment-
18 ed, for the most part belonging to the class insecta, comprising
19 6-legged, usually winged forms, as for example, beetles, bugs,
20 bees, flies, and to other allied classes or arthropods whose mem-
21 bers are wingless and usually have more than 6 legs, as for exam-
22 ple, spiders, mites, ticks, centipedes, and wood lice.

23 (4) "Insecticide" means a substance or mixture of substances
24 intended for preventing, destroying, repelling, or mitigating an
25 insect.

1 (5) "Label" means the written, printed, or graphic matter
2 on, or attached to, the pesticide or device or any of its
3 containers or wrappers.

4 (6) "Labeling" means the label and all other written,
5 printed, or graphic matter accompanying the pesticide or device,
6 or to which reference is made on the label or in literature
7 accompanying the pesticide or device, and all applicable modifi-
8 cations or supplements to official publications of the EPA, the
9 United States departments of agriculture and interior, the United
10 States department of health, education, and welfare, state exper-
11 iment stations, state agricultural colleges, and other similar
12 federal or state institutions or agencies authorized by law to
13 conduct research in the field of pesticides.

14 (7) "METHOD DETECTION LIMIT" MEANS THE MINIMUM CONCENTRATION
15 OF A SUBSTANCE THAT CAN BE MEASURED AND REPORTED WITH 99% CONFI-
16 DENCE THAT THE ANALYTE CONCENTRATION IS GREATER THAN 0 AND IS
17 DETERMINED FROM ANALYSIS OF A SAMPLE IN A GIVEN MATRIX THAT CON-
18 TAINS THE ANALYTE.

19 (8) ~~-(7)-~~ "Misbranded" applies to any pesticide or device if
20 it is an imitation of or is offered for sale under the name of
21 another pesticide, or if its labeling does not comply with label-
22 ing requirements of this act, the rules promulgated under this
23 act, the FIFRA, or regulations promulgated thereunder.

24 (9) ~~-(8)-~~ "Molluscicide" means a substance or mixture of
25 substances intended for preventing, destroying, repelling, or
26 mitigating a mollusk.

1 Sec. 7. (1) "Registered applicator" means a person who is
2 not a certified applicator and who is 1 or more of the
3 following:

4 (a) Authorized to apply general and restricted use pesti-
5 cides for a commercial purpose as provided in this act and in the
6 rules promulgated under this act.

7 (b) Applies pesticides as a scheduled and required work
8 assignment in the course of his or her employment on the property
9 of another person for any purpose.

10 (c) Applies pesticides for a private agricultural purpose.

11 (2) "Registrant" means a person who has registered a pesti-
12 cide pursuant to this act.

13 (3) "Restricted use pesticide" means a pesticide formulation
14 classified for restricted use by EPA or the director.

15 (4) "Restricted use pesticide dealer" means a person engaged
16 in the distributing, selling, or offering for sale restricted use
17 pesticides to the ultimate user.

18 (5) "Rodenticide" means a substance or mixture of substances
19 intended for preventing, destroying, repelling, or mitigating
20 rodents or any other vertebrate animal.

21 (6) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
22 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
23 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
24 LAWS.

25 (7) "STATE MANAGEMENT PLAN" MEANS A PLAN FOR THE PROTECTION
26 OF GROUNDWATER AS REQUIRED BY THE UNITED STATES ENVIRONMENTAL

1 PROTECTION AGENCY'S LABELING REQUIREMENTS FOR PESTICIDES AND
2 DEVICES, 40 C.F.R. PART 156.

3 (8) ~~-(6)-~~ "Supervise" means the act or process of a certi-
4 fied applicator in directing the application of a pesticide by a
5 competent person under his or her instruction and control and for
6 whose actions the certified applicator is responsible, even
7 though the certified applicator is not physically present at the
8 time and place the pesticide is applied.

9 (9) ~~-(7)-~~ "Unreasonable adverse effects on the environment"
10 means any unreasonable risk to human beings or the environment,
11 taking into account the economic, social, and environmental costs
12 and benefits of the use of a pesticide.

13 (10) "USE" MEANS THE LOADING, MIXING, APPLYING, STORING,
14 TRANSPORTING, OR DISPOSING OF A PESTICIDE.

15 (11) ~~-(8)-~~ "Vendor" means a person that sells or distributes
16 pesticides.

17 (12) ~~-(9)-~~ "Weed" means a plant which grows where not
18 wanted.

19 Sec. 8. (1) Every pesticide which is distributed, sold,
20 exposed, or offered for sale in this state shall be registered
21 with the director pursuant to this act. Registration shall be on
22 forms provided by the director and shall be renewed annually
23 before July 1. THE DIRECTOR SHALL NOT REGISTER A PESTICIDE UNDER
24 THIS ACT UNLESS THE REGISTRANT HAS PAID ALL GROUNDWATER PROTEC-
25 TION FEES REQUIRED UNDER THE GROUNDWATER AND FRESHWATER PROTEC-
26 TION ACT. Registration is not required if a pesticide is shipped
27 from 1 plant or warehouse to another plant or warehouse operated

1 by the same person and used solely at that plant or warehouse as
2 a constituent part to make a pesticide which is registered under
3 this act, or if the pesticide is distributed pursuant to an
4 experimental permit.

5 (2) An applicant for registration of a pesticide shall
6 submit a complete copy of the labeling accompanying the pesti-
7 cide, and shall file on a form provided by the director informa-
8 tion which shall include the following:

9 (a) The name and address of the applicant and the name and
10 address of the person whose name will appear on the label, if
11 other than the applicant.

12 (b) The full product name of the pesticide.

13 (c) A full description of tests made and the results of
14 tests made upon which claims are based for the pesticide if not
15 registered by the EPA.

16 (d) Other necessary information required for completion of
17 the registration form.

18 (3) To register a pesticide for special local needs pursuant
19 to section 24(c) of FIFRA, or the regulations promulgated under
20 that section, the director shall require the information set
21 forth under subsection (2). A pesticide may be registered for
22 special local needs if the director determines that:

23 (a) Its composition is such as to warrant the proposed
24 claims for it.

25 (b) Its labeling and other material required to be submitted
26 comply with the labeling requirements of FIFRA or regulations
27 promulgated under that act.

1 (c) It will perform its intended functions without
2 unreasonable adverse effects on the environment.

3 (d) When used in accordance with widespread and commonly
4 recognized practice, it will not generally cause unreasonable
5 adverse effects on the environment.

6 (e) The classification for general or restricted use is in
7 conformity with section 3(d) of FIFRA.

8 (4) PESTICIDES CONTAINING ACTIVE OR INERT INGREDIENTS THAT
9 HAVE BEEN CONFIRMED IN GROUNDWATER AT A LEVEL ABOVE THEIR GROUND-
10 WATER RESOURCE RESPONSE LEVEL AND PESTICIDES FOR WHICH A STATE
11 MANAGEMENT PLAN IS REQUIRED SHALL BE REGISTERED AS RESTRICTED USE
12 PESTICIDES. THE DIRECTOR, BY RULE, SHALL ESTABLISH ADDITIONAL
13 CRITERIA FOR DESIGNATING A PESTICIDE A RESTRICTED USE PESTICIDE
14 DUE TO GROUNDWATER CONCERNS.

15 (5) ~~-(4)-~~ The director shall require the applicant to submit
16 a complete formula of the pesticide proposed for registration,
17 including the active and inert ingredients, when necessary to
18 execute the director's duties under this act. The director may
19 not use for his or her own advantage or reveal, other than to his
20 or her authorized representative, the EPA, the department of nat-
21 ural resources, the department of public health, a court of the
22 state in response to a subpoena, a licensed physician, or in an
23 emergency to a pharmacist or other persons qualified to adminis-
24 ter antidotes, any information relative to formulas of products,
25 trade secrets, or other information obtained under authority of
26 this act.

1 (6) ~~-(5)-~~ A registration approved by the director and in
2 effect on June 30 for which the July 1 renewal application is
3 made and the annual registration fee paid shall continue in full
4 force and effect until the director notifies the applicant that
5 the registration is renewed or denied.

6 (7) ~~-(6)-~~ Decisions on pesticide registration shall continue
7 to be made cooperatively by the departments of agriculture, natu-
8 ral resources, and public health and the Michigan water resources
9 commission in accordance with a memorandum of agreement entered
10 into by the departments.

11 (8) IF A SPECIFIC PESTICIDE ACTIVE INGREDIENT FOR WHICH A
12 GROUNDWATER PROTECTION RULE HAS BEEN ADOPTED HAS BEEN CONFIRMED
13 IN GROUNDWATER AT 3 OR MORE SITES AT LEVELS EXCEEDING THE GROUND-
14 WATER RESOURCE PROTECTION LEVEL, THE DIRECTOR MAY CANCEL THE REG-
15 ISTRATION OF PESTICIDES CONTAINING THAT SPECIFIC PESTICIDE
16 INGREDIENT. IN DETERMINING THE NEED TO CANCEL PESTICIDE REGIS-
17 TRATIONS DUE TO GROUNDWATER CONCERNS, THE DIRECTOR SHALL CONSIDER
18 THE DEGREE TO WHICH THE REGISTRANT OR REGISTRANTS ARE WILLING TO
19 ADDRESS GROUNDWATER CONCERNS ASSOCIATED WITH THEIR PRODUCT OR
20 PRODUCTS, AND THE POTENTIAL EFFECTIVENESS OF ADDITIONAL RESTRIC-
21 TIONS, PROHIBITIONS, OR GROUNDWATER PROTECTION RULE
22 MODIFICATIONS.

23 (9) A REGISTRANT WHO INTENDS TO DISCONTINUE A PESTICIDE REG-
24 ISTRATION SHALL DO EITHER OF THE FOLLOWING:

25 (A) TERMINATE FURTHER DISTRIBUTION WITHIN THE STATE AND CON-
26 TINUE TO REGISTER THE PESTICIDE ANNUALLY FOR 2 SUCCESSIVE YEARS.

1 (B) INITIATE A RECALL OF THE PESTICIDE FROM DISTRIBUTION IN
2 THE STATE WITHIN 60 DAYS FROM THE DATE OF NOTIFICATION TO THE
3 DIRECTOR OF INTENT TO DISCONTINUE REGISTRATION.

4 (10) UPON THE DIRECTOR'S REQUEST, A PERSON THAT HAS REGIS-
5 TERED A PESTICIDE IN THIS STATE SHALL SUBMIT TO THE DIRECTOR
6 INFORMATION NECESSARY TO DETERMINE THE PESTICIDE'S MOBILITY IN
7 THE ENVIRONMENT AND POTENTIAL TO CONTAMINATE GROUNDWATER. THIS
8 INFORMATION MAY INCLUDE ANY OF THE FOLLOWING:

9 (A) WATER SOLUBILITY.

10 (B) VAPOR PRESSURE.

11 (C) OCTANOL-WATER PARTITION COEFFICIENT.

12 (D) SOIL ABSORPTION COEFFICIENT.

13 (E) HENRY'S LAW CONSTANT.

14 (F) DISSIPATION STUDIES INCLUDING HYDROLYSIS, PHOTOLYSIS,
15 AEROBIC AND ANAEROBIC SOIL METABOLISM.

16 (G) PRODUCT FORMULATION.

17 (H) OTHER INFORMATION CONSIDERED NECESSARY BY THE DIRECTOR.

18 (11) ALL INFORMATION REQUESTED UNDER SUBSECTION (10) SHALL
19 BE SUBMITTED IN A SUMMARY FORMAT APPROVED BY THE DIRECTOR AND
20 SHALL BE CONSISTENT WITH THE DATA REQUIREMENTS OF FIFRA. THE
21 DIRECTOR, AFTER REVIEW OF THE SUBMITTED INFORMATION, MAY REQUEST
22 INDIVIDUAL STUDIES INCLUDING METHODS AND PROTOCOLS.

23 (12) AS USED IN THIS SECTION:

24 (A) "AEROBIC SOIL METABOLISM" MEANS THE RATE AT WHICH A
25 CHEMICAL DEGRADES IN SOIL IN THE PRESENCE OF OXYGEN.

26 (B) "ANAEROBIC SOIL METABOLISM" MEANS THE RATE AT WHICH A
27 CHEMICAL DEGRADES IN SOIL IN THE ABSENCE OF OXYGEN.

1 (C) "HENRY'S LAW CONSTANT" MEANS THE RATIO OF THE PARTIAL
2 PRESSURE OF A COMPOUND IN AIR TO THE CONCENTRATION OF THE COM-
3 POUND IN WATER AT A GIVEN TEMPERATURE.

4 (D) "HYDROLYSIS" MEANS A CHEMICAL REACTION IN WHICH A WATER
5 COMBINES WITH AND SPLITS THE ORIGINAL CHEMICAL CREATING DEGRADA-
6 TION PRODUCTS.

7 (E) "OCTANOL-WATER PARTITION COEFFICIENT" MEANS THE RATIO OF
8 A CHEMICAL'S CONCENTRATION IN THE WATER-SATURATED OCTANOL PHASE
9 TO THE CHEMICAL'S CONCENTRATION IN THE OCTANOL-SATURATED WATER
10 PHASE.

11 (F) "PHOTOLYSIS" MEANS A CHEMICAL REACTION IN WHICH LIGHT OR
12 RADIANT ENERGY SERVES TO SPLIT THE ORIGINAL COMPOUND CREATING
13 DEGRADATION PRODUCTS.

14 (G) "SOIL ABSORPTION COEFFICIENT" MEANS THE RATIO OF
15 ABSORBED CHEMICAL PER UNIT WEIGHT OF SOIL OR ORGANIC CARBON TO
16 THE AQUEOUS SOLUTE CONCENTRATION.

17 (H) "VAPOR PRESSURE" MEANS THE PRESSURE EXERTED BY THE VAPOR
18 OF A SUBSTANCE WHEN IT IS UNDER EQUILIBRIUM CONDITIONS.

19 (I) "WATER SOLUBILITY" MEANS THE MAXIMUM AMOUNT OF A MATE-
20 RIAL WHICH CAN BE DISSOLVED IN WATER TO GIVE A STABLE SOLUTION.

21 Sec. 11. (1) A person who is a restricted use pesticide
22 dealer shall obtain an annual license for each business
23 location. The license shall expire on December 31. The annual
24 license fee of \$50.00 shall accompany the application for license
25 together with other pertinent information the director may
26 require. The license fee shall be credited to the general fund
27 of the state.

1 (2) Application shall be made by a person in charge of each
2 business location who shall demonstrate to the director his
3 knowledge of the laws and rules governing the use and sale of
4 restricted use pesticides, and his responsibility in carrying on
5 the business of a restricted use pesticide dealer. This demon-
6 stration shall be made with a written examination prescribed by
7 the director.

8 (3) A restricted use pesticide dealer shall forward to the
9 director, as required by rule, a record of all sales of
10 restricted use pesticides on forms provided by the director.
11 Duplicate copies of the records shall be kept on file by the
12 restricted use pesticide dealer, subject to inspection by an
13 authorized agent of the director, for 2 years after the date of
14 sale. The information contained in the individual reports filed
15 with the director by licensees pursuant to this section, shall,
16 upon request, be supplied in summary form to other state agen-
17 cies, except that the information regarding a pesticide for which
18 a patent is in force may not be made available to the public if,
19 in the discretion of the director, release of that information
20 would tend to have a significant adverse effect on the competi-
21 tive position of the dealer, distributor, or manufacturer. The
22 summary shall include the name and address of the restricted use
23 pesticide dealer, the name and address of the purchaser, the name
24 of the pesticide sold and, in an emergency, the quantity sold.
25 (4) A restricted use pesticide shall be sold or distributed
26 only by a licensed restricted use pesticide dealer for use by
27 applicators certified under this act.

1 (5) A restricted use pesticide dealer's license is subject
2 to denial, suspension, or revocation for a violation of this sec-
3 tion or rules promulgated under this section, whether committed
4 by the dealer or by the dealer's officer, agent, or employee.

5 (6) A RESTRICTED USE PESTICIDE DEALER SHALL MAINTAIN AND
6 SUBMIT RECORDS OF ALL SALES AND THE INTENDED COUNTY OF APPLICA-
7 TION FOR ALL PESTICIDES WHOSE USE IS RESTRICTED DUE TO GROUNDWA-
8 TER CONCERNS SOLD TO PRIVATE APPLICATORS.

9 (7) INFORMATION COLLECTED IN SUBSECTION (6) SHALL BE CONSID-
10 ERED CONFIDENTIAL BUSINESS INFORMATION AND NOT SUBJECT TO THE
11 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
12 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED
13 LAWS.

14 Sec. 12. (1) A private agricultural applicator or commer-
15 cial applicator shall not use a restricted use pesticide without
16 first complying with the certification and other requirements of
17 this act and the rules promulgated under this act. Certification
18 requirements for commercial applicators shall include completion
19 of a written examination prescribed by the director.
20 Certification requirements for private agricultural applicators
21 shall provide optional methods of certification to include 1 of
22 the following:

23 (a) Self-study and examination.

24 (b) Classroom training and examination.

25 (c) An oral fact-finding interview administered by an autho-
26 rized representative of the director when a person is unable to
27 demonstrate competence by examination or classroom training.

1 (2) AT THE TIME OF SALE, PRIVATE APPLICATORS SHALL PROVIDE
2 IDENTIFICATION OF THE INTENDED COUNTY OF APPLICATION OF A
3 RESTRICTED USE PESTICIDE.

4 (3) ~~—(2)—~~ A certified commercial applicator shall maintain
5 records of restricted use pesticide applications for 3 years from
6 the date of application and make those records available upon
7 request to an authorized representative of the director during
8 normal business hours.

9 (4) A COMMERCIAL APPLICATOR SHALL KEEP FOR 3 YEARS FROM THE
10 DATE OF APPLICATION A RECORD OF THE PESTICIDE REGISTRATION
11 NUMBER, PRODUCT NAME, THE FORMULATED AMOUNT APPLIED, AND APPLICA-
12 TION LOCATION FOR ALL RESTRICTED USE PESTICIDES USED BY THE COM-
13 Mercial APPLICATOR. A SUMMARY OF THIS INFORMATION INDICATING THE
14 PESTICIDE REGISTRATION NUMBER, PRODUCT NAME, AND TOTAL FORMULATED
15 AMOUNT OF PESTICIDE APPLIED TO EACH COUNTY DURING THE PREVIOUS
16 CALENDAR YEAR SHALL BE TRANSMITTED TO THE DIRECTOR BEFORE
17 MARCH 1. THIS SUMMARY SHALL BE SUBMITTED ON FORMS PROVIDED BY OR
18 APPROVED BY THE DIRECTOR. INFORMATION COLLECTED UNDER THIS SUB-
19 SECTION SHALL BE CONSIDERED CONFIDENTIAL BUSINESS INFORMATION AND
20 NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE
21 PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
22 MICHIGAN COMPILED LAWS.

23 (5) ~~—(3)—~~ A certified applicator shall supervise the appli-
24 cation of a general use pesticide by a noncertified applicator
25 under his or her instruction and control even though the certi-
26 fied applicator is not physically present. A certified
27 applicator shall directly supervise the application of a

1 restricted use pesticide if prescribed by the label, this act, or
2 rules promulgated under this act.

3 (6) ~~-(4)-~~ A certified applicator and a commercial applicator
4 are subject to the requirements, prohibitions, and penalties of
5 this act for an application of pesticides by the certified appli-
6 cator or the commercial applicator and for an application of pes-
7 ticides by a person directly or indirectly supervised by the cer-
8 tified applicator or the commercial applicator.

9 (7) ~~-(5)-~~ Any person shall follow recommended and accepted
10 good practices in the use of pesticides including use of a pesti-
11 cide in a manner consistent with its labeling.

12 (8) ~~-(6)-~~ A federal agency, state agency, municipality,
13 county road commission, or any other governmental agency that
14 uses a pesticide classified for restricted use is subject to this
15 act and the rules promulgated under this act.

16 SEC. 18A. (1) UPON CONFIRMING CONTAMINATION OF GROUNDWATER
17 BY A PESTICIDE PURSUANT TO THE GROUNDWATER AND FRESHWATER PROTEC-
18 TION ACT AT A SINGLE LOCATION, THE DIRECTOR SHALL DO ALL OF THE
19 FOLLOWING:

20 (A) ASSIST IN THE COORDINATION OF LOCAL ACTIVITIES DESIGNED
21 TO PREVENT FURTHER CONTAMINATION OF GROUNDWATER.

22 (B) CONDUCT ENVELOPE MONITORING.

23 (C) PERFORM AN EVALUATION OF ACTIVITIES THAT MAY HAVE CON-
24 TRIBUTED TO THE CONTAMINATION.

25 (D) MAKE A DETERMINATION AS TO THE DEGREE TO WHICH GROUNDWA-
26 TER STEWARDSHIP PRACTICES WERE BEING UTILIZED.

1 (E) MAKE A DETERMINATION AS TO THE POTENTIAL SOURCE OR
2 SOURCES OF THE CONTAMINATION.

3 (2) IF CONFIRMED CONCENTRATIONS OF PESTICIDES EXCEED THE
4 GROUNDWATER RESOURCE RESPONSE LEVEL OR A CONFIRMED CONTAMINANT
5 HAS MIGRATED INTO GROUNDWATER OFF OF THE PROPERTY, THE DIRECTOR
6 SHALL REQUIRE A PERSON WHOSE ACTION OR NEGLIGENCE WAS POTENTIALLY
7 RESPONSIBLE FOR THE CONTAMINATION TO DEVELOP AN ACTIVITY PLAN. A
8 PERSON REQUIRED TO DEVELOP AN ACTIVITY PLAN SHALL DEVELOP AND
9 SUBMIT THE ACTIVITY PLAN TO THE DIRECTOR WITHIN 90 DAYS AFTER
10 RECEIVING NOTICE FROM THE DIRECTOR. UPON RECEIPT OF AN ACTIVITY
11 PLAN, THE DIRECTOR SHALL APPROVE OR REJECT THE PLAN WITHIN 90
12 DAYS. IF REJECTED, THE DIRECTOR SHALL PROVIDE A DESCRIPTION OF
13 REASONS FOR REJECTION. UPON RECEIPT OF A REJECTION, THE PERSON
14 SHALL WITHIN 90 DAYS DEVELOP AN ACCEPTABLE ACTIVITY PLAN.

15 (3) IF THE ACTIVITIES ON A CONTAMINATION SITE ARE DETERMINED
16 BY THE DIRECTOR TO BE IN ACCORDANCE WITH ALL APPLICABLE COMPO-
17 NENTS OF THE GROUNDWATER STEWARDSHIP PRACTICES AND GROUNDWATER
18 PROTECTION RULES, ACTIVITIES NOT POTENTIALLY RESPONSIBLE FOR THE
19 CONTAMINATION INCIDENT MAY CONTINUE.

20 (4) IF ACTIVITIES ON A CONTAMINATION SITE ARE DETERMINED BY
21 THE DIRECTOR NOT TO BE IN ACCORDANCE WITH THIS ACT, THE DIRECTOR
22 MAY ISSUE AN ORDER TO CEASE OR MODIFY ACTIVITIES ON THE SITE
23 INVOLVING PESTICIDE USE. A PERSON AGGRIEVED BY AN ORDER ISSUED
24 UNDER THIS SECTION MAY REQUEST A HEARING PURSUANT TO THE ADMINIS-
25 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
26 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
27 LAWS.

1 SEC. 18B. (1) THE DIRECTOR SHALL PROMULGATE A GROUNDWATER
2 PROTECTION RULE THAT DEFINES THE SCOPE AND REGION OF IMPLEMENTA-
3 TION OF THE RULE IF ANY OF THE FOLLOWING OCCUR:

4 (A) A PESTICIDE HAS BEEN CONFIRMED IN GROUNDWATER AT LEVELS
5 EXCEEDING ITS GROUNDWATER RESOURCE RESPONSE LEVEL IN A LEAST 3
6 DISTINCT LOCATIONS AS A RESULT OF SIMILAR ACTIVITIES AS DETER-
7 MINED UNDER SECTION 18A(1) AND THE DIRECTOR DETERMINES THAT VOL-
8 UNTARY ADOPTION OF THE GROUNDWATER STEWARDSHIP PRACTICES PURSUANT
9 TO THE GROUNDWATER AND FRESHWATER PROTECTION ACT HAS NOT BEEN
10 EFFECTIVE IN PREVENTING GROUNDWATER CONTAMINANT CONCENTRATIONS
11 FROM EXCEEDING THE GROUNDWATER RESOURCE RESPONSE LEVEL.

12 (B) THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PRO-
13 POSES TO SUSPEND OR CANCEL REGISTRATION OF THE PESTICIDE, PROHIB-
14 ITS OR LIMITS THE PESTICIDE'S SALE OR USE IN THE STATE, OR OTHER-
15 WISE INITIATES ACTION AGAINST THE PESTICIDE BECAUSE OF GROUNDWA-
16 TER CONCERNS.

17 (2) THE DIRECTOR MAY PROMULGATE A GROUNDWATER PROTECTION
18 RULE FOR A SPECIFIC PESTICIDE IF THE PESTICIDE CONTAINS AN ACTIVE
19 INGREDIENT WITH A METHOD DETECTION LIMIT GREATER THAN ITS GROUND-
20 WATER RESOURCE RESPONSE LEVEL.

21 (3) IN DETERMINING THE NEED FOR AND SCOPE OF A GROUNDWATER
22 PROTECTION RULE, THE DIRECTOR SHALL CONSIDER THE TYPE OF CONTAMI-
23 NANT OR CONTAMINANTS AND THE EXTENT TO WHICH ANY OF THE FOLLOWING
24 APPLY:

25 (A) THE SOURCE OR SOURCES OF THE CONTAMINANT OR CONTAMINANTS
26 CAN BE IDENTIFIED.

1 (B) AN IDENTIFIED SOURCE OR SOURCES ARE ASSOCIATED WITH A
2 SPECIFIC ACTIVITY, OR ACTIVITIES.

3 (C) LOCAL RESPONSE TO THE CONTAMINATION IS ADEQUATE TO PRO-
4 TECT GROUNDWATER.

5 (D) STATE LABEL RESTRICTIONS AS ALLOWED UNDER SECTIONS 18
6 AND 24 OF FIFRA, CHAPTER 125, 86 STAT. 995 AND 997, 7 U.S.C. 136p
7 AND 136v, THAT COULD ADEQUATELY ADDRESS THE PROBLEM.

8 (E) RESTRICTED USE CLASSIFICATION COULD ADEQUATELY ADDRESS
9 THE PROBLEM.

10 (F) THE USE, VALUE, AND VULNERABILITY OF THE RESOURCE AND
11 WHETHER THE GROUNDWATER IS A CURRENTLY OR REASONABLY EXPECTED
12 SOURCE OF DRINKING WATER.

13 (G) TECHNICAL AND ECONOMIC FEASIBILITY OF ANY MANDATED PRAC-
14 TICES ON PERSONS IN THE REGION.

15 (H) THE OVERALL PRODUCTIVITY AND ECONOMIC VIABILITY OF THE
16 STATE'S AGRICULTURE.

17 (4) IN DETERMINING THE REGION OF IMPLEMENTATION FOR A
18 GROUNDWATER PROTECTION RULE, THE DIRECTOR SHALL CONSIDER BOTH OF
19 THE FOLLOWING:

20 (A) THE RELIABILITY AND GEOGRAPHICAL DISTRIBUTION OF GROUND-
21 WATER SAMPLE TEST DATA.

22 (B) THE EXTENT TO WHICH LOCAL AQUIFER SENSITIVITY CONDITIONS
23 CAN BE CONSIDERED CHARACTERISTICS OF A LARGER REGION.

24 (5) THE DIRECTOR MAY APPROVE ALTERNATIVE OPERATIONS TO THOSE
25 DEFINED IN A GROUNDWATER PROTECTION RULE IF THEY CAN BE SHOWN TO
26 BE PROTECTIVE OF GROUNDWATER.

1 Sec. 19. (1) The director may promulgate rules for carrying
2 out this act, including, but not limited to, rules providing
3 for:

4 (a) The collection, examination, and reporting the results
5 of examination of samples of pesticides or devices.

6 (b) The safe handling, transportation, storage, display,
7 distribution, and disposal of pesticides and their containers.

8 (c) The designation of restricted use pesticides for the
9 state or for specified areas within the state. The director may
10 include in the rule the time and conditions of sale, distribu-
11 tion, and use of restricted use pesticides.

12 (d) The certification and licensing of applicators, and the
13 licensing of restricted use pesticide dealers.

14 (e) The maintenance of records by certified commercial
15 applicators with respect to applications of restricted use
16 pesticides.

17 (f) Good practice in the use of pesticides.

18 (g) Use of a pesticide in a manner consistent with its
19 labeling including adequate supervision of noncertified applica-
20 tors where appropriate.

21 (2) Not later than 1 year after the effective date of the
22 amendatory act that added this subsection, the director shall
23 submit rules to the joint committee on administrative rules per-
24 taining to all of the following:

25 (a) The development of a training program for applicators
26 who apply pesticides for private agricultural purposes on the use
27 of appropriate procedures for the application of pesticides;

1 safety procedures for pesticide application; clothing and
2 protective equipment for pesticide application; the detection of
3 common symptoms of pesticide poisoning; the means of obtaining
4 emergency medical treatment; hazards posed by pesticides to work-
5 ers, the public health, and the environment; specific categories
6 of pesticides; and the requirements of applicable laws, rules,
7 and labeling.

8 (b) The development of training programs for integrated pest
9 management systems in schools, public buildings, and health care
10 facilities.

11 (c) The duty of commercial applicators to inform customers
12 of potential risks and benefits associated with the application
13 of pesticides.

14 (3) Not later than 18 months after the effective date of the
15 amendatory act that added this subsection the director shall
16 submit rules to the joint committee on administrative rules per-
17 taining to the protection of agriculture employees who hand har-
18 vest agricultural commodities regarding all of the following:

19 (a) The establishment of field reentry periods after the
20 application of agricultural pesticides.

21 (b) The posting and notification of areas where pesticides
22 have been applied.

23 (c) The use of protective clothing, safety devices, hand
24 washing, or other methods of protection from pesticide exposure.

25 (d) Notification of agricultural workers of poison treatment
26 facilities.

1 (4) If the EPA at any time adopts and publishes agricultural
2 worker protection standards, the federal standards shall
3 supersede rules promulgated under subsection (3).

4 (5) Not later than 1 year after the effective date of the
5 amendatory act that added this section, the director shall submit
6 rules to the joint committee on administrative rules. These
7 rules shall include all of the following:

8 (a) Minimum standards of competency and experience or exper-
9 tise for trainers of certified and registered applicators.

10 (b) The development of a training program for applicators on
11 the use of appropriate procedures for the application of pesti-
12 cides; safety procedures for pesticide application; clothing and
13 protective equipment for pesticide application; the detection of
14 common symptoms of pesticide poisoning; the means of obtaining
15 emergency medical treatment; hazards posed by pesticides to work-
16 ers, the public health, and the environment; specific categories
17 of pesticides; and the requirements of applicable laws, rules,
18 and labeling.

19 (c) The number of directly supervised application hours
20 required before a registered applicator may apply each category
21 of restricted use pesticide without direct supervision.

22 Section 2. This amendatory act shall not take effect unless
23 Senate Bill No. 74 of the 87th Legislature is enacted into law.