



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**PESTICIDE APPLICATION: EXEMPT
EMPLOYEES OF DOCTORS, VETS**

**House Bill 5734 (Substitute H-1)
First Analysis (4-23-96)**

**Sponsor: Rep. Carl F. Gnodtke
Committee: Agriculture & Forestry**

THE APPARENT PROBLEM:

Since it was amended in 1972, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has required pesticides to be registered and categorized as "general use" or "restricted use," and since 1976 the act has required states to regulate pesticide applicators by requiring them to be registered and certified if they wish to use restricted-use pesticides (generally, pesticides that cannot be obtained "over the counter"). Michigan followed suit by enacting Public Act 171 of 1976, otherwise known as the Pesticide Control Act. (The provisions of this act subsequently were codified into the Natural Resources and Environmental Protection Act of 1994.) This act not only regulates the use of pesticides in the state and establishes certification requirements for pesticide applicators, it also exempts certain persons from registration and certification requirements as allowed by federal law. Among those currently exempt from these requirements are allopathic and osteopathic physicians and veterinarians. Recently, the Environmental Protection Agency extended the federal exemption to include employees of these types of physicians and of veterinarians who apply pesticides under their employer's supervision, and similar changes have been proposed for Michigan's law.

THE CONTENT OF THE BILL:

The Natural Resources and Environmental Protection Act currently requires certain persons who apply pesticides to the environment to be licensed and to meet minimum requirements, and exempts certain other persons from these provisions, including allopathic or osteopathic physicians and veterinarians when an application is done in the course of their normal work. The bill would add to the list of persons exempt from these requirements regular employees of these types of physicians or veterinarians while acting under their employer's direct or indirect supervision, depending on the type of pesticide being applied.

For applications involving "general use" pesticides, a qualified physician or veterinarian would have to supervise the activity, and it could only be done by a competent employee acting under the physician's or

veterinarian's instruction and control even if he or she was not physically present. For "restricted-use" pesticide applications, the physician or veterinarian would have to directly supervise the activity by being physically present at the time and place the pesticide was being applied.

Under the bill, qualifying physicians or veterinarians would be subject to the act's requirements, prohibitions, and penalties, and to promulgated rules, relating to the application of pesticides either by them or employees under their direct or indirect supervision during the course of their normal work.

MCL 324.8319

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would not affect state or local budget expenditures. (4-17-96)

ARGUMENTS:

For:

The bill would grant to employees of allopathic and osteopathic physicians and of veterinarians a similar exemption from registration and certification requirements for pesticide applicators that currently applies to these types of physicians and veterinarians. Generally speaking, only veterinarians use pesticide treatments on a regular basis with their animal patients--for instance, to control fleas or ticks--although in rare cases physicians apparently use similar treatments for human patients with lice or other parasites. In most cases, treatments of this sort involve the kind of pesticides (i.e., "general use") that anyone could purchase over the counter. However, since current law specifically grants the exemption only to doctors and veterinarians, those who assist them may not apply such treatments without first obtaining certification, even though anyone else outside the confines of a doctor's office or veterinary clinic could legally perform this task--particularly when it involves a pet. Of course, doctors or veterinarians who want their employees to be

House Bill 5734 (4-23-96)

able to apply pesticides must pay the costs of certification, which includes work time lost to have their employees certified, and these costs usually are passed on to their customers. The bill would solve this problem by specifically exempting employees of these doctors and veterinarians from pesticide applicator certification requirements as long as applications were done under either their employer's direct or indirect supervision, depending on the type of pesticide applied. With this change, state law merely would reflect current federal law. In addition, the bill clarifies that a physician or veterinarian ultimately would be responsible for pesticide applications performed by their employees.

Against:

The bill would require an employee of a physician or veterinarian applying a general pesticide under indirect supervision to be "competent" to carry out this activity, but fails to establish a similar standard for those who would apply restricted use pesticides, albeit under their employer's direct supervision. The same standard should apply to both types of pesticide applications performed by these employees.

POSITIONS:

The Department of Agriculture supports the bill. (4-22-96)

The Michigan Veterinary Medical Association supports the bill. (4-17-96)

The Michigan Association of Osteopathic Physicians and Surgeons is not opposed to the bill. (4-17-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.