

# HOUSE BILL No. 5154

October 9, 2003, Introduced by Reps. Gaffney, Minore, Smith, Ward, Plakas, Gillard, Ruth Johnson, Gleason, Farrah, Sak, O'Neil, Vagnozzi, Clack, Condino, Bieda, LaJoy, Nofs, Law, Walker, Brandenburg, Tobocman, Kolb, Acciavatti, Howell and Elkins and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 8303, 8306, and 8316 (MCL 324.8303,  
324.8306, and 324.8316), sections 8303 and 8306 as amended by  
2002 PA 418.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 8303. (1) "Day care center" means that term as defined  
2 in section 1 of 1973 PA 116, MCL 722.111.

3       (2) ~~—(1)—~~ "Defoliant" means a substance or mixture of  
4 substances intended for causing the leaves or foliage to drop  
5 from a plant, with or without causing abscission.

6       (3) ~~—(2)—~~ "Department" means the department of agriculture.

7       (4) ~~—(3)—~~ "Desiccant" means a substance or mixture of  
8 substances intended for artificially accelerating the drying of  
9 plant tissue.

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

(6) ~~-(5)-~~ "Direct supervision" means directing the application of a pesticide while being physically present during the application. However, direct supervision by a private agricultural applicator means either of the following:

(a) The private agricultural applicator is in the same field or location directing the application of a restricted use pesticide by an uncertified applicator.

(b) The private agricultural applicator supervises the uncertified applicator and is physically present during the initial restricted use pesticide application on an agricultural commodity or agricultural structure, including calibration, mixing, application, operator safety, and disposal.

(7) ~~-(6)-~~ "Director" means the director of the department ~~of~~ ~~agriculture~~ or his or her authorized representative.

(8) ~~-(7)-~~ "Distribute" means to offer for sale, hold for sale, sell, barter, ship, or deliver pesticides in this state.

(9) ~~-(8)-~~ "Envelope monitoring" means monitoring of groundwater in areas adjacent to properties where groundwater is contaminated to determine the concentration and spatial distribution of the contaminant in the aquifer.

(10) ~~-(9)-~~ "Environment" includes water, air, land, and all plants and human beings and other animals living therein, and the interrelationships that exist among them.

1       (11) ~~—(10)—~~ "EPA" means the United States environmental  
2 protection agency.

3       (12) ~~—(11)—~~ "FIFRA" means the federal insecticide, fungicide,  
4 and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to  
5 136i, ~~—and—~~ 136j to 136r and 136s to 136y.

6       (13) ~~—(12)—~~ "Fungi" means all nonchlorophyll bearing  
7 thallophytes; that is, all nonchlorophyll bearing plants of a  
8 lower order than mosses and liverworts, as for example rusts,  
9 smuts, mildews, molds, yeasts, and bacteria, except those in or  
10 on other animals, and except those in or on processed foods,  
11 beverages, or pharmaceuticals.

12       (14) ~~—(13)—~~ "General use pesticide" means a pesticide that is  
13 not a restricted use pesticide.

14       (15) ~~—(14)—~~ "Groundwater" means underground water within the  
15 zone of saturation.

16       (16) ~~—(15)—~~ "Groundwater protection rule" means a rule  
17 promulgated under this part that ~~—defines—~~ **specifies** a minimum  
18 operational standard for structures, activities, and procedures  
19 that may have or may contribute to the contamination of  
20 groundwater and that ~~—defines the scope of a groundwater~~  
21 ~~protection rule, the~~ **specifies the standard's scope,** region of  
22 implementation, ~~—of a groundwater protection rule,—~~ and  
23 implementation period. ~~—for those rules.—~~ As used in this  
24 subsection:

25       (a) "Structures, activities, and procedures" includes, but is  
26 not limited to, mixing, loading, and rinse pads, application  
27 equipment, application timing, application rates, crop rotation,

1 and pest control thresholds.

2 (b) ~~"The scope of a groundwater protection rule" may define~~  
 3 **"Scope" means applicability to** a particular pesticide, structure,  
 4 activity, or procedure or ~~may define~~ pesticides containing  
 5 specific ingredients.

6 (c) ~~"The region of implementation of a groundwater~~  
 7 ~~protection rule~~ **"Region of implementation"** may include specific  
 8 soil types or aquifer sensitivity regions or any other geographic  
 9 boundary.

10 **(17)** ~~(16)~~ "Groundwater resource protection level" means a  
 11 maximum contaminant level, health advisory level, or, if the EPA  
 12 has not established a maximum contaminant level or a health  
 13 advisory level, a level established by the director of public  
 14 health using risk assessment protocol established by rule under  
 15 this part.

16 **(18)** ~~(17)~~ "Groundwater resource response level" means 20%  
 17 of the groundwater resource protection level. ~~In cases where~~  
 18 **If** 20% of the groundwater resource protection level is less than  
 19 the method detection limit, the method detection limit ~~shall~~  
 20 ~~serve as~~ **is** the groundwater resource response level.

21 Sec. 8306. (1) "Registered applicator" means an individual  
 22 who is authorized to apply general use pesticides for a private  
 23 or commercial purpose as provided in this part and in the rules  
 24 promulgated under this part.

25 (2) "Ready-to-use pesticide" means a pesticide that is  
 26 applied directly from its original container consistent with  
 27 label directions, such as an aerosol insecticide or rodenticide

1 bait pack that does not require mixing or loading prior to  
2 application.

3 (3) "Registrant" means a person who is required to register a  
4 pesticide pursuant to this part.

5 (4) "Restricted use pesticide" means a pesticide classified  
6 for restricted use by the EPA or the director.

7 (5) "Restricted use pesticide dealer" means a person engaged  
8 in distributing, selling, or offering for sale restricted use  
9 pesticides to the ultimate user.

10 (6) "Rodenticide" means a pesticide intended for preventing,  
11 destroying, repelling, or mitigating rodents.

12 (7) "School" means public and private schools, grades  
13 kindergarten through the twelfth grade, **but does not include a**  
14 **home school.**

15 (8) "Supervise" means directing the application of a  
16 pesticide with or without being physically present during the  
17 application.

18 (9) "Unreasonable adverse effect on the environment" means  
19 any unreasonable risk to human beings or the environment, taking  
20 into account the economic, social, and environmental costs and  
21 benefits of the use of a pesticide.

22 (10) "Use of a pesticide" means the loading, mixing,  
23 applying, storing, transporting, and disposing of a pesticide.

24 (11) "Vendor" means a person who sells or distributes  
25 pesticides.

26 (12) "Violates this part" or "violation of this part" means a  
27 violation of this part, a rule promulgated under this part, or an

1 order issued under this part.

2 (13) "Weed" means a plant which grows where it is not  
3 wanted.

4 Sec. 8316. ~~—(1) At the beginning of each school year,~~  
5 ~~school administrators shall notify parents and guardians of~~  
6 ~~children attending that school of the right to be informed prior~~  
7 ~~to any application of a pesticide at that school.~~

8 ~~—— (2) The notice described in subsection (1) shall contain~~  
9 ~~information, obtained from the person applying the pesticide,~~  
10 ~~which includes a statement that a pesticide will be applied, the~~  
11 ~~approximate location of the application, and the date of the~~  
12 ~~application.~~

13 (1) A school or day care center shall annually notify the  
14 parents or guardians of children attending that school or cared  
15 for at that day care center that the parents or guardians will  
16 receive 48 hours' advance notice of the application of a  
17 pesticide at the school or day care center. A school shall give  
18 the annual notice at the beginning of the school year, and a day  
19 care center shall give the annual notice at the beginning of the  
20 calendar year.

21 (2) An annual notice shall satisfy all of the following  
22 requirements:

23 (a) Be in writing.

24 (b) Specify 2 methods by which the 48-hour notice will be  
25 given. The first method shall be by posting in a public, common  
26 area of the school or day care center, other than an entrance.  
27 Subject to subdivision (c), the second method shall be 1 of the

1 following:

2 (i) Posting notice at the entrances to the school or day care  
3 center.

4 (ii) E-mail.

5 (iii) First-class United States mail.

6 (iv) For schools, providing students with a written notice to  
7 be delivered to their parents or guardians.

8 (c) State that, instead of other means of notice under  
9 subdivision (b)(i), (ii), or, if applicable, (iv), parents or  
10 guardians are entitled to receive the 48-hour notice by  
11 first-class United States mail, if they so request, and the  
12 manner in which such a request shall be made.

13 (3) A 48-hour notice shall contain all of the following  
14 information:

15 (a) A statement that a pesticide will be applied.

16 (b) The location of the application.

17 (c) The date of the application.

18 (d) The scientific and trade names of the pesticide.

19 (e) A toll-free telephone number for the national pesticide  
20 telecommunications network and a telephone number for pesticide  
21 information from the department.

22 (4) A person shall not apply pesticides at a school or day  
23 care center if children are present at the school or day care  
24 center.

25 (5) A school or day care center shall prohibit children from  
26 entering an area of pesticide application at the school or day  
27 care center for the period directed on the pesticide label.

1       (6) Subsections (1) to (5) do not apply to any of the  
2 following:

3       (a) The use of a pesticide as part of vocational education  
4 concerning agriculture.

5       (b) The use of an aerosol product, to protect individuals  
6 from an imminent threat from stinging or biting insects such as  
7 bees, spiders, or hornets if the aerosol product is sold in a  
8 container of 18 fluid ounces or less and has a narrow, directed  
9 spray.

10       (c) The use of a pesticide if the registration or an  
11 amendment to the registration of the pesticide received expedited  
12 review by the EPA under section 3(c)(10) of the federal  
13 insecticide, fungicide and rodenticide act, chapter 125, 86  
14 Stat. 979, 7 U.S.C. 136a.