



Senate Fiscal Agency
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**BILL ANALYSIS**

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Senate Bill 682 (as introduced 8-22-07)
Sponsor: Senator Michelle A. McManus
Committee: Agriculture

Date Completed: 10-24-07

CONTENT

The bill would amend several parts of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Establish an agricultural pesticide dealer license, with an annual license application fee of \$100.**
- **Permit the Director of the Michigan Department of Agriculture (MDA) to deny, revoke, or suspend an agricultural pesticide dealer license or a restricted use pesticide dealer license for any violation of Part 83 (Pesticide Control) of NREPA or an order issued under that part, or for a conviction under Part 83, a Federal pesticide law, or a pesticide law of a reciprocating state.**
- **Require an agricultural pesticide dealer or restricted use pesticide dealer operating from outside the State to maintain a resident agent located in Michigan.**
- **Require an agricultural pesticide dealer or a restricted use pesticide dealer to report certain sales information to the agricultural pesticide registrant.**
- **Delay from December 31, 2010, to December 31, 2020, the sunset on groundwater protection fees paid by pesticide and fertilizer registrants and licensees.**

Restricted Use Pesticide Dealer

Part 83 prohibits a person from distributing, selling, or offering for sale restricted use pesticides to the ultimate user except as authorized under an annual license issued under Part 13 (Permits). (Part 13 provides for the issuance of certain permits that are required under NREPA, including a restricted use pesticide dealer business location license. The bill would refer to a restricted use pesticide dealer license.)

Under the bill, a person licensed as a restricted use pesticide dealer who operated from a business location outside the State would have to maintain a resident agent located in the State, and would have to file with the MDA the name, address, and telephone number of that resident agent.

Currently, the MDA Director may deny, suspend, or revoke a restricted use pesticide dealer license for a violation of Part 83 committed by the dealer or the dealer's officer, agent, or employee. Under the bill, the Director also could take those actions for any violation of an order issued under Part 83, or upon conviction under Part 83, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or a state pesticide law of a reciprocating state committed by a dealer or a dealer's officer, agent, or employee.

The MDA Director would have to inform an applicant who was denied a restricted use pesticide dealer license of the reasons that the license was denied.

The bill would require a restricted use pesticide dealer who distributed agricultural pesticides from outside the State into the State to report the following sales information to the agricultural pesticide registrant:

- The product name.
- The Environmental Protection Agency (EPA) registration number.
- The amount and wholesale value of pesticide sold or distributed.
- The date of sale or distribution.
- The sales or distribution invoice number.
- The name and address of the consignee.

Under the bill, "agricultural pesticide" would mean a pesticide bearing labeling that met Federal worker protection agricultural use requirements established in 40 CFR Parts 156 and 170. (Part 156 of Title 40 of the Code of Federal Regulations deals with labeling requirements for pesticides and devices, and requires every pesticide product to bear a label containing specific information about the product, including its name and registration number, an ingredient statement, hazard and precautionary statements, and the name and address of the producer, registrant, or person for whom the product was produced. Part 170 establishes worker protection standards, and requires an employer to ensure that a pesticide handler either has read the product labeling or has been informed of all labeling requirements before the handler handles a pesticide. The employer also must ensure that the handler has access to the product labeling information during handling activities.)

Agricultural Pesticide Dealer

The bill would define "agricultural pesticide dealer" as a person engaged in distributing, selling, or offering for sale an agricultural pesticide to the ultimate user.

The bill would prohibit a person who was not licensed as a restricted use pesticide dealer from distributing agricultural pesticides into the State for further distribution or to the ultimate user except as authorized under an annual license for each place of business, issued by the MDA under Part 13. (Under the bill, the definition of "permit" in Part 13 would include an agricultural pesticide dealer license.)

This prohibition would not apply to a pesticide registrant who distributed agricultural pesticides into the State.

The applicant for an agricultural pesticide dealer license would have to be the individual in charge of each business location.

A person licensed as an agricultural pesticide dealer who operated from a business location outside the State would have to maintain a resident agent located in the State and file with the MDA the name, address, and telephone number of the resident agent.

An agricultural pesticide dealer who distributed agricultural pesticides from outside the State into the State would have to report the following sales information to the agricultural pesticide registrant:

- The product name.
- The EPA registration number.
- The amount and wholesale value of pesticide sold or distributed.
- The date of sale or distribution.
- The sales or distribution invoice number.

-- The name and address of the consignee.

The MDA Director at any time could deny, suspend, or revoke an agricultural pesticide dealer license if the dealer or the dealer's officer, agent or employee committed any violation of Part 83 or an order issued under that part, or upon conviction under Part 83, FIFRA, or a state pesticide law of a reciprocating state.

The Director would have to inform an applicant who was denied an agricultural pesticide dealer license of the reasons for the denial.

The license application fee for an agricultural pesticide dealer license would be \$100. The license would expire annually on December 31.

Rules

Under Part 83, the MDA Director is required to promulgate rules for implementing the part, including rules for the designation of restricted use pesticides for the State or for specified areas within the State. The Director may include in the rules the time and conditions of sale, distribution, and use of restricted use pesticides. Under the bill, these provisions would apply to agricultural pesticides, as well.

The Director also is required to promulgate rules for the certification and licensing of applicators and the licensing of restricted use pesticide dealers. Under the bill, those rules would include the licensing of agricultural pesticide dealers.

Definitions

The bill would revise the definition of "distribute", which currently means to offer for sale, hold for sale, sell, barter, ship, or deliver pesticides in the State. The bill would add "inventory, receive for others, or transport".

Under Part 83, "building manager" means the person designated as being responsible for the building's pest management program, and to whom any reporting and notification are to be made under Part 83. The bill would remove the reference to reporting and notification.

(Part 83 requires notification of certain information to a building manager as part of an integrated pest management program and under other provisions regarding the application of pesticides.)

Sunset

The bill would postpone the sunset on Section 8715 of NREPA from December 31, 2010, to December 31, 2020.

(That section requires a registrant under Part 83 to pay an annual groundwater protection fee for each product to be registered. The fee for specialty pesticides is \$100 per product. The fee for all other pesticides is 0.75% of the wholesale value of the previous registration year's product sales for use in the State, with a minimum of \$150.

Also, a person required to pay a specialty fertilizer or soil conditioner registration fee under Part 85 (Fertilizers) must pay a \$100 groundwater protection fee for each brand and product name of each brand registered. All other licensed fertilizer manufacturers or distributors must pay a groundwater protection fee of one and one-half cents per percent of nitrogen in the fertilizer for each ton sold.)

FISCAL IMPACT

The fiscal impact of the bill cannot be determined at this time. The number of agricultural pesticide dealers who would be affected is unknown.

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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.