

Sub. H. B. No. 96
As Passed by the Senate
AGRCD16

_____ moved to amend as follows:

After line 30745, insert:

"Sec. 921.01. As used in this chapter:

(A) "Active ingredient" means any ingredient that will prevent, destroy, kill, repel, control, or mitigate any pest, or that will act as a plant regulator, defoliant, or desiccant.

(B) "Adulterated" shall apply to any pesticide if its strength or purity is less than or greater than the professed standard or quality as expressed on its labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(C) "Agricultural commodity" means any plant or part thereof or animal or animal product, produced for commercial use by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons, primarily for the sale, consumption, propagation, or other use, by humans or animals.



(D) "Aircraft" means any device used or designed for navigation or flight in the air, except a parachute or other device used primarily as safety equipment.

(E) "Animal" means all vertebrate and invertebrate species, including, but not limited to, humans and other mammals, birds, fish, and shellfish.

(F) "Authorized diagnostic inspection" means a diagnostic inspection conducted by a commercial applicator in the pesticide-use category in which the commercial applicator is licensed under this chapter.

(G) "Beneficial insects" means those insects that, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

(H) "Brand" means any word, name, symbol, device, or combination thereof, that serves to distinguish the pesticide manufactured or distributed by one person from that manufactured or distributed by any other person.

(I) "Pesticide applicator" means a commercial applicator or a private applicator.

(J) "Private applicator" means an individual who is licensed under section 921.11 of the Revised Code.

(K) "Commercial applicator" means an individual who is licensed under section 921.06 of the Revised Code to apply pesticides or to conduct authorized diagnostic inspections.

(L) "Competent" means properly qualified as evidenced by passing the general examination and each applicable pesticide-use category examination for the pesticide-use categories in which a person applies pesticides and, in the case of a person

who is a commercial applicator, conducts diagnostic inspections 47
and by meeting any other criteria established by rule. 48

(M) "Federal act" means the "Federal Insecticide, 49
Fungicide and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 50
136, as amended. 51

(N) "Defoliant" means any substance or mixture of 52
substances intended for causing the leaves or foliage to drop 53
from a plant, with or without causing abscission. 54

(O) "Desiccant" means any substance or mixture of 55
substances intended for artificially accelerating the drying of 56
plant tissue. 57

(P) "Device" means any instrument or contrivance, other 58
than a firearm, that is intended for trapping, destroying, 59
repelling, or mitigating any pest or any other form of plant or 60
animal life, other than human beings and other than bacteria, 61
virus, or other microorganism on or in living human beings or 62
other living animals. "Device" does not include equipment used 63
for the application of pesticides when sold separately 64
therefrom. 65

(Q) "Direct supervision" means ~~either of the following, as~~ 66
~~applicable:~~ 67

~~(1) Unless, unless otherwise~~ prescribed by its labeling, 68
a general use pesticide is considered to be applied under the 69
direct supervision of a commercial applicator, if it is applied 70
by a trained serviceperson acting under the instructions and 71
control of a commercial applicator. 72

~~(2) Unless otherwise prescribed by its labeling, a~~ 73
~~restricted use pesticide is considered to be applied under the~~ 74

~~direct supervision of a private applicator, if it is applied by~~ 75
~~an immediate family member or a subordinate employee of that~~ 76
~~private applicator acting under the instructions and control of~~ 77
~~the private applicator, who is responsible for the actions of~~ 78
~~that immediate family member or subordinate employee and who is~~ 79
~~available when needed, even though the private applicator is not~~ 80
~~physically present at the time and place the restricted use~~ 81
~~pesticide application is occurring.~~ 82

(R) "Directly supervise" means providing direct 83
supervision under division ~~(Q) (1) or (2) or both of those~~ 84
~~divisions (Q) of this section, as applicable.~~ 85

(S) "Distribute" means to offer or hold for sale, sell, 86
barter, ship, deliver for shipment, or receive and, having so 87
received, to deliver or offer to deliver, pesticides in this 88
state. "Distribute" does not mean to hold for use, apply, or use 89
pesticides or dilutions of pesticides, except when a pesticide 90
dealer holds for use, applies, or uses pesticides or dilutions 91
of pesticides in the course of business with a commercial 92
applicator who is employed by that pesticide dealer. 93

(T) "Environment" includes water, air, land, and all 94
plants and human beings and other animals living therein, and 95
the interrelationships that exist among them. 96

(U) "Fungus" means any nonchlorophyll-bearing thallophyte, 97
which is any nonchlorophyll-bearing plant of a lower order than 98
mosses and liverworts, as for example, rust, smut, mildew, mold, 99
yeast, and bacteria, except those on or in living human beings 100
or other animals, or processed food, beverages, or 101
pharmaceuticals. 102

(V) "General use pesticide" means a pesticide that is 103

classified for general use under the federal act. 104

(W) "Ground equipment" means any device, other than 105
aircraft, used on land or water to apply pesticides in any form. 106

(X) ~~"Immediate family" means a person's spouse residing in 107
the person's household, brothers and sisters of the whole or of 108
the half blood, children, including adopted children, parents, 109
and grandparents. 110~~

~~(Y)~~ "Incidental use" or "incidentally use" means the 111
application of a general use pesticide on an occasional, 112
isolated, site-specific basis in order to avoid immediate 113
personal harm. "Incidental use" or "incidentally use" does not 114
mean regular, routine, or maintenance application of a general 115
use pesticide. 116

~~(Z)~~ (Y) "Inert ingredient" means an ingredient that is not 117
active. 118

~~(AA)~~ (Z) "Ingredient statement" means a statement of the 119
name and percentage of each active ingredient, together with the 120
total percentage of inert ingredients. When the pesticide 121
contains arsenic in any form, the ingredient statement shall 122
include percentages of total and water soluble arsenic, each 123
calculated as elemental arsenic. 124

~~(BB)~~ (AA) "Insect" means any of the numerous small 125
invertebrate animals generally having the body more or less 126
obviously segmented, for the most part belonging to the class 127
insecta, including, but not limited to, beetles, bugs, bees, and 128
flies, and to other allied classes of arthropods, including, but 129
not limited to, spiders, mites, ticks, centipedes, and wood 130
lice. 131

~~(CC)~~ (BB) "Integrated pest management" means a sustainable
approach to managing pests by combining biological, cultural,
physical, and chemical tools in a way that minimizes economic,
health, and environmental risks.

~~(DD)~~ (CC) "Label" means the written, printed, or graphic
matter on, or attached to the pesticide or device, or any of its
containers or wrappers.

~~(EE)~~ (DD) "Labeling" means all labels and other written,
printed, or graphic matter:

(1) Accompanying the pesticide product or device at any
time;

(2) To which reference is made on the label or in
literature accompanying the pesticide product or device, except
when accurate, nonmisleading reference is made to current
official publications of the United States environmental
protection agency, the United States department of agriculture
or interior, the United States department of health and human
services, state experiment stations, state agricultural
colleges, or other similar federal or state institutions or
official agencies, authorized by law to conduct research in the
field of pesticides;

(3) Including all brochures, technical and sales
bulletins, and all advertising material.

~~(FF)~~ (EE) "Licensure" includes certification as used in the
federal act.

~~(GG)~~ (FF) "Misbranded" applies, if the conditions of either
division ~~(GG)~~ (1) ~~(FF)~~ (1) or (2) of this section are satisfied as
follows:

(1) To any pesticide or device, if at least one of the following occurs:

(a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients that is false or misleading in any particular.

(b) It is an imitation of or is distributed under the name of another pesticide or device.

(c) Any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(2) To any pesticide, if at least one of the following occurs:

(a) The labeling of a restricted use pesticide does not contain a statement that it is a restricted use pesticide.

(b) The labeling accompanying it does not contain directions for use that are necessary for effecting the purpose for which the pesticide is intended and, if complied with, together with any requirements imposed by the federal act, that are adequate to protect the environment.

(c) The label does not bear all of the following:

(i) The name, brand, or trademark under which the pesticide is distributed;

(ii) An ingredient statement on the part of the immediate container and on the outside container and wrapper of the retail

package, if any, through which the ingredient statement on the 188
immediate container cannot be clearly read, which is presented 189
or displayed under customary conditions of purchase, provided 190
that the ingredient statement may appear prominently on another 191
part of the container as permitted by the amended federal act or 192
by the director; 193

(iii) A warning or caution statement that may be necessary 194
and that, if complied with together with any requirement imposed 195
under the federal act, would be adequate to protect the 196
environment; 197

(iv) The net weight or measure of the contents, subject to 198
such reasonable variations as the administrator of the United 199
States environmental protection agency or the director of 200
agriculture may permit; 201

(v) The name and address of the manufacturer, registrant, 202
or person for whom manufactured; 203

(vi) The United States environmental protection agency 204
registration number assigned to each establishment in which the 205
pesticide was produced and the agency registration number 206
assigned to it, as required by regulations under the federal 207
act. 208

(d) The pesticide contains any substance or substances in 209
quantities highly toxic to human beings unless the label bears, 210
in addition to other label requirements, all of the following: 211

(i) The skull and crossbones; 212

(ii) The word "poison" in red prominently displayed on a 213
background of distinctly contrasting color; 214

(iii) A statement of an antidote or a practical or 215

emergency medical treatment, first aid or otherwise, in case of 216
poisoning by the pesticide. 217

(e) It is contained in a package or other container or 218
wrapping that does not conform to the standard established by 219
the administrator of the United States environmental protection 220
agency. 221

~~(HH)~~ (GG) "Nematodes" means invertebrate animals of the 222
phylum nemathelminthes and class nematoda, which are 223
unsegmented, round worms with elongated, fusiform, or sac-like 224
bodies covered with cuticle, and that inhabit soil, water, 225
plants, or plant parts and also may be called nema or eel-worms. 226

~~(II)~~ (HH) "Pest" means a harmful, destructive, or nuisance 227
insect, fungus, rodent, nematode, bacterium, bird, snail, weed, 228
or parasitic plant or a harmful or destructive form of plant or 229
animal life or virus, or any plant or animal species that the 230
director declares to be a pest, except viruses, bacteria, or 231
other microorganisms on or in living animals, including human 232
beings. 233

~~(JJ)~~ (II) "Pesticide" means any substance or mixture of 234
substances intended for either of the following: 235

(1) Preventing, destroying, repelling, or mitigating any 236
pest; 237

(2) Use as a plant regulator, defoliant, or desiccant. 238

"Pesticide" includes a pest monitoring system designated 239
by rule. 240

~~(KK)~~ (JJ) "Pesticide dealer" means any person who 241
distributes restricted use pesticides or pesticides whose uses 242
or distribution are further restricted by the director to the 243

ultimate user or to a commercial applicator who is employed by 244
that pesticide dealer. 245

~~(LL)~~ (KK) "Pesticide business" means a person who performs 246
pesticide business activities. 247

~~(MM)~~ (LL) "Pesticide business activities" means any of the 248
following: 249

(1) The application of pesticides to the property of 250
another for hire; 251

(2) The solicitation to apply pesticides; 252

(3) The conducting of authorized diagnostic inspections. 253

~~(NN) "Pesticide business registered location" means a 254
location at which pesticide business activities are conducted 255
and that is registered through the issuance of a license to a 256
pesticide business under section 921.09 of the Revised Code. 257~~

~~(OO)~~ (MM) "Pesticide-use category" means a specialized 258
field of pesticide application or of diagnostic inspection as 259
defined by rule. 260

~~(PP)~~ (NN) "Plant regulator" means any substance or mixture 261
of substances, intended, through physiological action, for 262
accelerating or retarding the growth or rate of maturation, or 263
for otherwise altering the behavior of plants or the produce 264
thereof, but does not include substances to the extent that they 265
are intended as plant nutrients, trace elements, nutritional 266
chemicals, plant inoculants, or soil amendments. 267

~~(OO)~~ (OO) "Product name" means a coined or specific 268
designation applied to an individual pesticide of a fixed 269
combination and derivation. 270

~~(RR)~~ (PP) "Registrant" means a person who has registered a pesticide under this chapter.

~~(SS)~~ (QQ) "Restricted use pesticide" means any pesticide or pesticide use classified by the administrator of the United States environmental protection agency for use only by a pesticide applicator ~~or by an individual working under the direct supervision of a pesticide applicator.~~

~~(TT)~~ (RR) "Rule" means a rule adopted under section 921.16 of the Revised Code.

~~(UU)~~ (SS) "Sell or sale" means exchange of ownership or transfer of custody.

~~(VV)~~ (TT) "State restricted use pesticide" means any pesticide or pesticides classified by the director subsequent to a hearing held in accordance with Chapter 119. of the Revised Code for use only by pesticide applicators ~~or individuals working under their direct supervision.~~

~~(WW)~~ (UU) "Unreasonable adverse effects on the environment" means any unreasonable risk to human beings or the environment taking into account the economic, social, and environmental benefits and costs of the use of any pesticide.

~~(XX)~~ (VV) "Trained serviceperson" means an employee of a pesticide business, other business, agency of the United States government, state agency, or political subdivision who has been trained to apply general use pesticides while under the direct supervision of a commercial applicator.

~~(YY)~~ (WW) "Weed" means any plant that grows where not wanted.

~~(ZZ)~~ (XX) "Wildlife" means all living things that are

neither human, domesticated, or pests, including, but not 299
limited to, mammals, birds, and aquatic life. 300

~~(AAA)~~ (YY) "Trade secret" and "confidential business 301
information" mean any formula, plan, pattern, process, tool, 302
mechanism, compound, procedure, production date, or compilation 303
of information that is not patented, that is known only to 304
certain individuals within a commercial concern, and that gives 305
its user an opportunity to obtain a business advantage over 306
competitors who do not know or use it. 307

Sec. 921.02. (A) No person shall distribute a pesticide 308
within this state unless the pesticide is registered with the 309
director of agriculture under this chapter. Registrations shall 310
be issued for a period of time established by rule and shall be 311
renewed in accordance with deadlines established by rule. 312
Registration is not required if a pesticide is shipped from one 313
plant or warehouse to another plant or warehouse operated by the 314
same person and used solely at that plant or warehouse as a 315
constituent part to make a pesticide that is registered under 316
this chapter, or if the pesticide is distributed under the 317
provisions of an experimental use permit issued under section 318
921.03 of the Revised Code or an experimental use permit issued 319
by the United States environmental protection agency. 320

(B) The applicant for registration of a pesticide shall 321
file a statement with the director on a form provided by the 322
director, which shall include all of the following: 323

(1) The name and address of the applicant and the name and 324
address of the person whose name will appear on the label, if 325
other than the applicant's name; 326

(2) The brand and product name of the pesticide; 327

(3) Any necessary information required for completion of 328
the department of agriculture's application for registration, 329
including the agency registration number; 330

(4) A complete copy of the labeling accompanying the 331
pesticide and a statement of all claims to be made for it, 332
including the directions for use and the use classification as 333
provided for in the federal act. 334

(C) The director, when the director considers it necessary 335
in the administration of this chapter, may require the 336
submission of the complete formula of any pesticide including 337
the active and inert ingredients. 338

(D) The director may require a full description of the 339
tests made and the results thereof upon which the claims are 340
based for any pesticide. The director shall not consider any 341
data submitted in support of an application, without permission 342
of the applicant, in support of any other application for 343
registration unless the other applicant first has offered to pay 344
reasonable compensation for producing the test data to be relied 345
upon and the data are not protected from disclosure by section 346
921.04 of the Revised Code. In the case of a renewal of 347
registration, a statement shall be required only with respect to 348
information that is different from that furnished when the 349
pesticide was registered or last registered. 350

(E) The director may require any other information to be 351
submitted with an application. 352

Any applicant may designate any portion of the required 353
registration information as a trade secret or confidential 354
business information. Upon receipt of any required registration 355
information designated as a trade secret or confidential 356

business information, the director shall consider the designated 357
information as confidential and shall not reveal or cause to be 358
revealed any such designated information without the consent of 359
the applicants, except to persons directly involved in the 360
registration process described in this section or as required by 361
law. 362

(F) ~~Beginning January 1, 2007, each~~ Each applicant shall 363
pay a nonrefundable registration and inspection fee of ~~one-two~~ 364
hundred fifty dollars for each product name and brand registered 365
for the company whose name appears on the label. If an applicant 366
files for a renewal of registration after the deadline 367
established by rule, the applicant shall pay a penalty fee of 368
~~seventy-five~~ one hundred twenty-five dollars for each product 369
name and brand registered for the applicant. The penalty fee 370
shall be added to the original fee and paid before the renewal 371
registration is issued. In addition to any other remedy 372
available under this chapter, if a pesticide that is not 373
registered pursuant to this section is distributed within this 374
state, the person required to register the pesticide shall do so 375
and shall pay a penalty fee of ~~seventy-five~~ one hundred twenty- 376
five dollars for each product name and brand registered for the 377
applicant. The penalty fee shall be added to the original fee of 378
~~one-two~~ hundred fifty dollars and paid before the registration 379
is issued. 380

(G) Provided that the state is authorized by the 381
administrator of the United States environmental protection 382
agency to register pesticides to meet special local needs, the 383
director shall require the information set forth under divisions 384
(B), (C), (D), and (E) of this section and shall register any 385
such pesticide after determining that all of the following 386

conditions are met: 387

(1) Its composition is such as to warrant the proposed 388
claims for it. 389

(2) Its labeling and other material required to be 390
submitted comply with the requirements of the federal act and of 391
this chapter, and rules adopted thereunder. 392

(3) It will perform its intended function without 393
unreasonable adverse effects on the environment. 394

(4) When used in accordance with widespread and commonly 395
recognized practice, it will not generally cause unreasonable 396
adverse effects on the environment. 397

(5) The classification for general or restricted use is in 398
conformity with the federal act. 399

The director shall not make any lack of essentiality a 400
criterion for denying the registration of any pesticide. When 401
two pesticides meet the requirements of division (G) of this 402
section, the director shall not register one in preference to 403
the other. 404

(H) (1) The director may refuse to register a pesticide if 405
the application for registration fails to comply with this 406
section. 407

(2) The director may suspend or revoke a pesticide 408
registration after a hearing in accordance with Chapter 119. of 409
the Revised Code for a pesticide that fails to meet the claims 410
made for it on its label. 411

(3) The director may immediately suspend a pesticide 412
registration, prior to a hearing, when the director believes 413
that the pesticide poses an immediate hazard to human or animal 414

health or a hazard to the environment. Not later than fifteen 415
days after suspending the registration, the director shall 416
determine whether the pesticide poses such a hazard. If the 417
director determines that no hazard exists, the director shall 418
lift the suspension of the registration. If the director 419
determines that a hazard exists, the director shall revoke the 420
registration in accordance with Chapter 119. of the Revised 421
Code. 422

(I) All money collected under this section shall be 423
credited to the pesticide, fertilizer, and lime program fund 424
created in section 921.22 of the Revised Code. 425

Sec. 921.06. (A) (1) No individual shall do any of the 426
following without having a commercial applicator license issued 427
by the director of agriculture: 428

(a) Apply pesticides for a pesticide business without 429
direct supervision; 430

(b) Apply pesticides as part of the individual's duties 431
while acting as an employee of the United States government, a 432
state, county, township, or municipal corporation, or a park 433
district, port authority, or sanitary district created under 434
Chapter 1545., 4582., or 6115. of the Revised Code, 435
respectively; 436

(c) Apply restricted use pesticides. Division (A) (1) (c) of 437
this section does not apply to a private applicator ~~or an~~ 438
~~immediate family member or a subordinate employee of a private~~ 439
~~applicator who is acting under the direct supervision of that~~ 440
~~private applicator.~~ 441

(d) If the individual is the owner of a business other 442
than a pesticide business or an employee of such an owner, apply 443

pesticides at any of the following publicly accessible sites 444
that are located on the property: 445

(i) Food service operations that are licensed under 446
Chapter 3717. of the Revised Code; 447

(ii) Retail food establishments that are licensed under 448
Chapter 3717. of the Revised Code; 449

(iii) Golf courses; 450

(iv) Rental properties of more than four apartment units 451
at one location; 452

(v) Hospitals or medical facilities as defined in section 453
3701.01 of the Revised Code; 454

(vi) Child care centers or licensed school child programs 455
as defined in section 5104.01 of the Revised Code; 456

(vii) Facilities owned or operated by a school district 457
established under Chapter 3311. of the Revised Code, including 458
an educational service center, a community school established 459
under Chapter 3314. of the Revised Code, or a chartered or 460
nonchartered nonpublic school that meets minimum standards 461
established by the director of education and workforce; 462

(viii) State institutions of higher education as defined 463
in section 3345.011 of the Revised Code, nonprofit institutions 464
holding a certificate of authorization pursuant to Chapter 1713. 465
of the Revised Code, institutions holding a certificate of 466
registration from the state board of career colleges and schools 467
and program authorization for an associate or bachelor's degree 468
program issued under section 3332.05 of the Revised Code, and 469
private institutions exempt from regulation under Chapter 3332. 470
of the Revised Code as prescribed in section 3333.046 of the 471

Revised Code; 472

(ix) Food processing establishments as defined in section 473
3715.021 of the Revised Code; 474

(x) Any other site designated by rule. 475

(e) Conduct authorized diagnostic inspections. 476

(2) Divisions (A) (1) (a) to (d) of this section do not 477
apply to an individual who is acting as a trained serviceperson 478
under the direct supervision of a commercial applicator. 479

(3) Licenses shall be issued for a period of time 480
established by rule and shall be renewed in accordance with 481
deadlines established by rule. The fee for each such license 482
shall be established by rule. If a license is not issued or 483
renewed, the application fee shall be retained by the state as 484
payment for the reasonable expense of processing the 485
application. The director shall by rule classify by pesticide- 486
use category licenses to be issued under this section. A single 487
license may include more than one pesticide-use category. No 488
individual shall be required to pay an additional license fee if 489
the individual is licensed for more than one category. 490

The fee for each license or renewal does not apply to an 491
applicant who is an employee of the department of agriculture 492
whose job duties require licensure as a commercial applicator as 493
a condition of employment. 494

(B) Application for a commercial applicator license shall 495
be made on a form prescribed by the director. Each application 496
for a license shall state the pesticide-use category or 497
categories of license for which the applicant is applying and 498
other information that the director determines essential to the 499

administration of this chapter. 500

(C) (1) Except as provided in division (C) (2) of this 501
section, if the director finds that the applicant is competent 502
to apply pesticides and conduct diagnostic inspections and that 503
the applicant has passed both the general examination and each 504
applicable pesticide-use category examination as required under 505
division (A) of section 921.12 of the Revised Code, the director 506
shall issue a commercial applicator license limited to the 507
pesticide-use category or categories for which the applicant is 508
found to be competent. If the director rejects an application, 509
the director may explain why the application was rejected, 510
describe the additional requirements necessary for the applicant 511
to obtain a license, and return the application. The applicant 512
may resubmit the application without payment of any additional 513
fee. 514

(2) The director shall issue a commercial applicator 515
license in accordance with Chapter 4796. of the Revised Code to 516
an individual if either of the following applies: 517

(a) The individual holds a commercial applicator license 518
in another state. 519

(b) The individual has satisfactory work experience, a 520
government certification, or a private certification as 521
described in that chapter as a commercial applicator in a state 522
that does not issue that license. 523

A license issued under this division shall be limited to 524
the pesticide-use category or categories for which the applicant 525
is licensed in another state or has satisfactory work 526
experience, a government certification, or a private 527
certification in that state. 528

(D) (1) A person who is a commercial applicator shall be 529
deemed to hold a private applicator's license for purposes of 530
applying pesticides on agricultural commodities that are 531
produced by the commercial applicator. 532

(2) A commercial applicator shall apply pesticides only in 533
the pesticide-use category or categories in which the applicator 534
is licensed under this chapter. 535

(E) All money collected under this section shall be 536
credited to the pesticide, fertilizer, and lime program fund 537
created in section 921.22 of the Revised Code. 538

Sec. 921.09. (A) (1) No person shall own or operate a 539
pesticide business without obtaining a license from the director 540
of agriculture. Licenses shall be issued for a period of time 541
established by rule and shall be renewed in accordance with 542
deadlines established by rule. 543

(2) A person applying for a pesticide business license 544
shall ~~register~~ obtain a license for each location that is owned 545
by the person and used for the purpose of engaging in the 546
pesticide business. 547

(B) Any person who owns or operates a pesticide business 548
outside of this state, but engages in the business of applying 549
pesticides to properties of another for hire in this state, 550
shall obtain a license for the person's principal out-of-state 551
location from the director. In addition, the person shall 552
~~register~~ obtain a license for each location that is owned by the 553
person in this state and used for the purpose of engaging in the 554
pesticide business. 555

(C) (1) The person applying for a pesticide business 556
license shall file a statement with the director, on a form 557

provided by the director, that shall include all of the 558
following: 559

(a) The address of the principal place of business of the 560
pesticide business; 561

(b) The address of each location ~~that~~ concerning which the 562
person intends to ~~register~~ obtain a license under division (A) 563
(2) or (B) of this section; 564

(c) Any other information that the director determines 565
necessary and that the director requires by rule. 566

(2) Each applicant shall pay a license fee established by 567
rule for the ~~pesticide principal place of business~~ plus an 568
additional fee established by rule for each pesticide business 569
~~registered~~ location specified in the application. The license 570
may be renewed upon payment of a renewal fee for the principal 571
place of business established by rule plus an additional fee 572
established by rule for each pesticide business ~~registered~~ 573
location. A copy of the license shall be maintained and 574
conspicuously displayed at each ~~such~~ pesticide business 575
location. 576

(3) The issuance of a pesticide business license 577
constitutes ~~registration~~ licensure of any pesticide business 578
location identified in the application under division (C) (1) of 579
this section. 580

(4) The owner or operator of a pesticide business shall 581
notify the director not later than fifteen days after any change 582
occurs in the information required under division (C) (1) (a) or 583
(b) of this section. 584

(D) The owner or operator of a pesticide business shall 585

employ at least one commercial applicator for each pesticide 586
business ~~registered~~-location the owner or operator owns or 587
operates. 588

(E) The owner or operator of a pesticide business is 589
responsible for the acts of each employee in the handling, 590
application, and use of pesticides and in the conducting of 591
diagnostic inspections. The pesticide business license is 592
subject to denial, modification, suspension, or revocation after 593
a hearing for any violation of this chapter or any rule adopted 594
or order issued under it. The director may levy against the 595
owner or operator any civil penalties authorized by division (B) 596
of section 921.16 of the Revised Code for any violation of this 597
chapter or any rule adopted or order issued under it that is 598
committed by the owner or operator or by the owner's or 599
operator's officer, employee, or agent. 600

(F) The director may modify a license issued under this 601
section by one of the following methods: 602

(1) Revoking a licensee's authority to operate out of a 603
particular pesticide business ~~registered~~-location listed under 604
division (C) (1) (b) of this section; 605

(2) Preventing a licensee from operating within a specific 606
pesticide-use category. 607

(G) The director may deny a pesticide business license to 608
any person whose pesticide business license has been revoked 609
within the previous thirty-six months. 610

(H) Each pesticide business ~~registered~~-location that is 611
owned by a pesticide business is subject to inspection by the 612
director. 613

(I) All money collected under this section shall be 614
credited to the pesticide, fertilizer, and lime program fund 615
created in section 921.22 of the Revised Code. 616

Sec. 921.11. ~~(A)(1)~~ (A) As used in this section, "use" 617
means any of the following: 618

(1) Performing pre-application activities involving mixing 619
and loading the pesticide; 620

(2) Applying the pesticide by a commercial applicator or 621
private applicator; 622

(3) Performing other pesticide-related activities, 623
including transporting or storing pesticide containers that have 624
been opened, cleaning equipment, and disposing of excess 625
pesticides, spray mix, equipment wash waters, pesticide 626
containers, and other pesticide-containing materials. 627

(B) No individual shall ~~apply~~ use restricted use 628
pesticides unless the individual is one of the following: 629

~~(a)(1)~~ (1) Licensed under section 921.06 of the Revised Code; 630

~~(b)(2)~~ (2) Licensed under division ~~(B)~~ (C) of this section; 631

~~(c) A trained serviceperson who is acting under the direct~~ 632
~~supervision of a commercial applicator;~~ 633

~~(d) An immediate family member or a subordinate employee~~ 634
~~of a private applicator who is acting under the direct~~ 635
~~supervision of that private applicator.~~ 636

~~(2) No individual shall directly supervise the application~~ 637
~~of a restricted use pesticide unless the individual is one of~~ 638
~~the following:~~ 639

~~(a) Licensed under section 921.06 of the Revised Code;~~ 640

~~(b) Licensed under division (B) of this section.~~

~~(B) (1)~~ (C) (1) Subject to division ~~(B) (2)~~ (C) (2) of this section, the director of agriculture shall adopt rules to establish standards and procedures for the licensure of private applicators. An individual shall apply for a private applicator license to the director, on forms prescribed by the director. The individual shall include in the application the pesticide-use category or categories of the license for which the individual is applying and any other information that the director determines is essential to the administration of this chapter. The fee for each license shall be established by rule. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. If a license is not issued or renewed, the state shall retain any fee submitted as payment for reasonable expenses of processing the application.

(2) The director shall issue a private applicator license in accordance with Chapter 4796. of the Revised Code to an individual if either of the following applies:

(a) The individual holds a private applicator license in another state.

(b) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a private applicator in a state that does not issue that license.

A license issued under this division shall be limited to the pesticide-use category or categories for which the applicant is licensed in another state or has satisfactory work experience, a government certification, or a private

certification in that state.

670

~~(C)~~ (D) An individual who is licensed under this section shall use ~~or directly supervise the use of~~ a restricted use pesticide only for the purpose of producing agricultural commodities on property that is owned or rented by the individual or the individual's employer.

671

672

673

674

675

~~(D)~~ (E) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

676

677

678

Sec. 921.12. ~~(A)~~ (A) (1) The director of agriculture shall require each applicant for a license by examination under section 921.06 or 921.11 of the Revised Code to be examined on the applicant's knowledge and competency in each of the following:

679

680

681

682

683

~~(1)~~ (a) This chapter and rules adopted under it;

684

~~(2)~~ (b) The proper use, handling, and application of pesticides and, if the applicant is applying for a license under section 921.06 of the Revised Code, in the conducting of diagnostic inspections in the pesticide-use categories for which the applicant has applied.

685

686

687

688

689

(2) An applicant shall pay an examination fee of thirty dollars.

690

691

(B) Each application for renewal of a license provided for in section 921.06 of the Revised Code shall be filed prior to the deadline established by rule. If filed after the deadline, a penalty of fifty per cent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued. However, if a license issued under

692

693

694

695

696

697

section 921.06 or 921.11 of the Revised Code is not renewed 698
within one hundred eighty days after the date of expiration, the 699
licensee shall be required to take another examination on this 700
chapter and rules adopted under it and on the proper use, 701
handling, and application of pesticides and, if applicable, the 702
proper conducting of diagnostic inspections in the pesticide-use 703
categories for which the licensee has been licensed. 704

(C) A person who fails to pass an examination under 705
division (A) or (B) of this section is not entitled to an 706
adjudication under Chapter 119. of the Revised Code for that 707
failure. 708

(D) The holder of a commercial applicator license may 709
renew the license within one hundred eighty days after the date 710
of expiration without re-examination unless the director 711
determines that a new examination is necessary to insure that 712
the holder continues to meet the requirements of changing 713
technology and to assure a continuing level of competence and 714
ability to use pesticides safely and properly. 715

(E) The holder of a private applicator license may renew 716
the license within one hundred eighty days after the date of 717
expiration without re-examination unless the director determines 718
that a new examination is necessary to insure that the holder 719
continues to meet the requirements of changing technology and to 720
assure a continuing level of competence and ability to use 721
pesticides safely and properly. 722

(F) Instead of requiring a commercial applicator or 723
private applicator to complete re-examination successfully under 724
division (D) or (E) of this section, the director may require, 725
in accordance with criteria established by rule, the commercial 726
applicator or private applicator to participate in training 727

programs that are designed to foster knowledge of new technology 728
and to ensure a continuing level of competence and ability to 729
use pesticides safely and properly. The director or the 730
director's representative may provide the training or may 731
authorize a third party to do so. In order for such 732
authorization to occur, the third party and its training program 733
shall comply with standards and requirements established by 734
rule. 735

Sec. 921.13. (A) Any person who is acting in the capacity 736
of a pesticide dealer or who advertises or assumes to act as a 737
pesticide dealer at any time shall obtain a pesticide dealer 738
license from the director of agriculture. Licenses shall be 739
issued for a period of time established by rule and shall be 740
renewed in accordance with deadlines established by rule. A 741
license is required for each location or outlet within this 742
state from which the person distributes pesticides. 743

Any pesticide dealer who has no pesticide dealer outlets 744
in this state and who distributes restricted use pesticides 745
directly into this state shall obtain a pesticide dealer license 746
from the director for the pesticide dealer's principal out-of- 747
state location or outlet and for each sales person operating in 748
the state. 749

The applicant shall include a license fee established by 750
rule with the application for a license. The application shall 751
be made on a form prescribed by the director. 752

Each pesticide dealer shall ~~submit~~ maintain records ~~to the~~ 753
~~director~~ of all of the restricted use pesticides the pesticide 754
dealer has distributed, as specified by the director, and 755
~~duplicate the~~ records shall be retained by the pesticide dealer 756
for a period of time established by rules. 757

(B) This section does not apply to any federal, state, 758
county, or municipal agency that provides pesticides for its own 759
programs. 760

(C) Each licensed pesticide dealer is responsible for the 761
acts of each employee in the solicitation and sale of pesticides 762
and all claims and recommendations for use of pesticides. The 763
pesticide dealer's license is subject to denial, suspension, or 764
revocation after a hearing for any violation of this chapter 765
whether committed by the pesticide dealer or by the pesticide 766
dealer's officer, agent, or employee. 767

(D) All money collected under this section shall be 768
credited to the pesticide, fertilizer, and lime program fund 769
created in section 921.22 of the Revised Code. 770

Sec. 921.14. (A) Each commercial applicator shall keep a 771
record of both of the following: 772

(1) All diagnostic inspections conducted to determine 773
infestations of pests as required by rules adopted under 774
division (C) of section 921.16 of the Revised Code; 775

(2) All pesticide applications made by the applicator and 776
by any trained serviceperson ~~acting under the applicator's~~ 777
~~direct supervision~~ as required by rules adopted under division 778
(C) of section 921.16 of the Revised Code. 779

Each commercial applicator shall submit copies of the 780
records required under division (A) of this section to the 781
pesticide business, other business, state agency, or political 782
subdivision that employs the commercial applicator. 783

(B) Each pesticide business, other business, state agency, 784
or political subdivision that receives copies of records under 785

division (A) of this section shall retain them for a period of 786
time established by rule. 787

(C) Each private applicator shall keep a record of all 788
restricted use pesticide applications made by the applicator or 789
under the applicator's direct supervision as required by rules 790
adopted under division (C) of section 921.16 of the Revised 791
Code. In addition, each private applicator shall maintain the 792
record for a period of three years from the date of the 793
restricted use pesticide application to which that record refers 794
or for any longer period that the director of agriculture 795
determines necessary. 796

Sec. 921.16. (A) The director of agriculture shall adopt 797
rules the director determines necessary for the effective 798
enforcement and administration of this chapter. The rules may 799
relate to, but are not limited to, the time, place, manner, and 800
methods of application, materials, and amounts and 801
concentrations of application of pesticides, may restrict or 802
prohibit the use of pesticides in designated areas during 803
specified periods of time, and shall encompass all reasonable 804
factors that the director determines necessary to minimize or 805
prevent damage to the environment. In addition, the rules shall 806
establish the deadlines and time periods for registration, 807
registration renewal, late registration renewal, and failure to 808
register under section 921.02 of the Revised Code; the fees for 809
registration, registration renewal, late registration renewal, 810
and failure to register under section 921.02 of the Revised Code 811
that shall apply until the fees that are established under that 812
section take effect on January 1, 2007; and the fees, deadlines, 813
and time periods for licensure and license renewal under 814
sections 921.06, 921.09, 921.11, and 921.13 of the Revised Code. 815

(B) The director shall adopt rules that establish a
schedule of civil penalties for violations of this chapter, or
any rule or order adopted or issued under it, provided that the
civil penalty for a first violation shall not exceed five
thousand dollars and the civil penalty for each subsequent
violation shall not exceed ten thousand dollars. In determining
the amount of a civil penalty for a violation, the director
shall consider factors relevant to the severity of the
violation, including past violations and the amount of actual or
potential damage to the environment or to human beings. All
money collected under this division shall be credited to the
pesticide, fertilizer, and lime program fund created in section
921.22 of the Revised Code.

(C) The director shall adopt rules that set forth the
conditions under which the director:

(1) Requires that notice or posting be given of a proposed
application of a pesticide;

(2) Requires inspection, condemnation, or repair of
equipment used to apply a pesticide;

(3) Will suspend, revoke, or refuse to issue any pesticide
registration for a violation of this chapter;

(4) Requires safe handling, transportation, storage,
display, distribution, and disposal of pesticides and their
containers;

(5) Ensures the protection of the health and safety of
agricultural workers storing, handling, or applying pesticides,
and all residents of agricultural labor camps, as that term is
defined in section 3733.41 of the Revised Code, who are living
or working in the vicinity of pesticide-treated areas;

(6) Requires a record to be kept of all pesticide 845
applications made by each commercial applicator and of all 846
general use applications made by any trained serviceperson 847
acting under the commercial applicator's direct supervision and 848
of all restricted use pesticide applications made by each 849
private applicator ~~and by any immediate family member or~~ 850
~~subordinate employee of that private applicator who is acting~~ 851
~~under the private applicator's direct supervision as required~~ 852
under section 921.14 of the Revised Code; 853

(7) Determines the pesticide-use categories of diagnostic 854
inspections that must be conducted by a commercial applicator; 855

(8) Requires a record to be kept of all diagnostic 856
inspections conducted by each commercial applicator and by any 857
trained service person. 858

(D) The director shall prescribe standards for the 859
licensure of applicators of pesticides consistent with those 860
prescribed by the federal act and the regulations adopted under 861
it or prescribe standards that are more restrictive than those 862
prescribed by the federal act and the regulations adopted under 863
it. The standards may relate to the use of a pesticide or to an 864
individual's pesticide-use category. 865

The director shall take into consideration standards of 866
the United States environmental protection agency. 867

(E) The director may adopt rules setting forth the 868
conditions under which the director will: 869

(1) Collect and examine samples of pesticides or devices; 870

(2) Specify classes of devices that shall be subject to 871
this chapter; 872

(3) Prescribe other necessary registration information. 873

(F) The director may adopt rules that do either or both of 874
the following: 875

(1) Designate, in addition to those restricted uses so 876
classified by the administrator of the United States 877
environmental protection agency, restricted uses of pesticides 878
for the state or for designated areas within the state and, if 879
the director considers it necessary, to further restrict such 880
use; 881

(2) Define what constitutes "acting under the instructions 882
and control of a commercial applicator" as used in the 883
definition of "direct supervision" in division ~~(Q)(1)~~(Q) of 884
section 921.01 of the Revised Code. In adopting a rule under 885
division (F)(2) of this section, the director shall consider the 886
factors associated with the use of pesticide in the various 887
pesticide-use categories. Based on consideration of the factors, 888
the director may define "acting under the instructions and 889
control of a commercial applicator" to include communications 890
between a commercial applicator and a trained serviceperson that 891
are conducted via landline telephone or a means of wireless 892
communication. Any rules adopted under division (F)(2) of this 893
section shall be drafted in consultation with representatives of 894
the pesticide industry. 895

(G) Except as provided in division (D) of this section, 896
the director shall not adopt any rule under this chapter that is 897
inconsistent with the requirements of the federal act and 898
regulations adopted thereunder. 899

(H) The director, after notice and opportunity for 900
hearing, may declare as a pest any form of plant or animal life, 901

other than human beings and other than bacteria, viruses, and 902
other microorganisms on or in living human beings or other 903
living animals, that is injurious to health or the environment. 904

(I) The director may make reports to the United States 905
environmental protection agency, in the form and containing the 906
information the agency may require. 907

(J) The director shall adopt rules for the application, 908
use, storage, and disposal of pesticides if, in the director's 909
judgment, existing programs of the United States environmental 910
protection agency necessitate such rules or pesticide labels do 911
not sufficiently address issues or situations identified by the 912
department of agriculture or interested state agencies. 913

(K) The director shall adopt rules establishing all of the 914
following: 915

(1) Standards, requirements, and procedures for the 916
examination and re-examination of commercial applicators and 917
private applicators; 918

(2) With respect to training programs that the director 919
may require commercial applicators and private applicators to 920
complete: 921

(a) Standards and requirements that a training program 922
must satisfy in order to be offered by the director or the 923
director's representative or in order to be approved by the 924
director if a third party wishes to offer it; 925

(b) Eligibility standards and requirements that must be 926
satisfied by third parties who wish to provide the training 927
programs; 928

(c) Procedures that third parties must follow in order to 929

submit a proposed training program to the director for approval; 930

(d) Criteria that the director must consider when 931
determining whether to authorize a commercial applicator or 932
private applicator to participate in a training program instead 933
of being required to pass a re-examination. 934

(3) Training requirements for a trained serviceperson. 935

(L) The director shall adopt all rules under this chapter 936
in accordance with Chapter 119. of the Revised Code. 937

Sec. 921.23. (A) Except as provided in division (B) of 938
this section, the director of agriculture may suspend, prior to 939
a hearing, for not longer than ~~ten~~thirty days, and after the 940
opportunity for a hearing may deny, suspend, revoke, refuse to 941
renew, or modify any provision of any license, permit, or 942
registration issued pursuant to this chapter if the director 943
finds that the applicant or the holder of a license, permit, or 944
registration is no longer qualified, has violated any provision 945
of this chapter or rules adopted under it, has entered into an 946
administrative or judicial settlement under the federal act, has 947
been found guilty of violating the federal act, or has been 948
convicted of a misdemeanor involving moral turpitude or of a 949
felony. 950

(B) The director shall not deny a license, permit, or 951
registration issued pursuant to this chapter because an 952
applicant was convicted of or pleaded guilty to an offense 953
unless the refusal is in accordance with section 9.79 of the 954
Revised Code. 955

Sec. 921.24. No person shall do any of the following: 956

(A) Apply, use, directly supervise such application or 957

use, or recommend a pesticide for use inconsistent with the 958
pesticide's labeling, treatment standards, or other restrictions 959
imposed by the director of agriculture; 960

(B) Act as a commercial applicator without being licensed 961
to do so; 962

(C) Use any restricted use pesticide, unless the person is 963
licensed to do so, ~~is a trained serviceperson acting under the~~ 964
~~direct supervision of a commercial applicator, or is an~~ 965
~~immediate family member or a subordinate employee of a private~~ 966
~~applicator under the direct supervision of that private~~ 967
applicator under this chapter; 968

(D) Refuse or fail to keep or maintain records required by 969
the director in rules adopted under this chapter, or to make 970
reports when and as required by the director in rules adopted 971
under this chapter; 972

(E) Falsely or fraudulently represent the effect of 973
pesticides or methods to be utilized; 974

(F) Apply known ineffective or improper materials; 975

(G) Operate in a negligent manner, which includes the 976
operation of faulty or unsafe equipment; 977

(H) Impersonate any federal, state, county, or municipal 978
official; 979

(I) Make false or fraudulent records, invoices, or 980
reports; 981

(J) Fail to provide training to trained servicepersons in 982
the application of general use pesticides; 983

(K) Fail to provide direct supervision as specified in 984

rules adopted under division (C) of section 921.16 of the	985
Revised Code;	986
(L) Distribute a misbranded or adulterated pesticide;	987
(M) Use fraud or misrepresentation in making application	988
for a license or registration or renewal of a license or	989
registration;	990
(N) Refuse, fail, or neglect to comply with any limitation	991
or restriction of a license or registration issued under this	992
chapter or rules adopted thereunder;	993
(O) Aid or abet a licensee or another person in violating	994
this chapter or rules adopted thereunder;	995
(P) Make a false or misleading statement in an inspection	996
concerning any infestation of pests or the use of pesticides;	997
(Q) Refuse or fail to comply with this chapter, the rules	998
adopted thereunder, or any lawful order of the director;	999
(R) Distribute restricted use pesticides to the ultimate	1000
user without a pesticide dealer's license;	1001
(S) Except as provided in division (F) of section 921.26	1002
of the Revised Code, distribute restricted use pesticides to an	1003
ultimate user who is not licensed under section 921.06 or 921.11	1004
of the Revised Code and rules adopted under this chapter;	1005
(T) Use any pesticide that is under an experimental use	1006
permit contrary to the provisions of the permit;	1007
(U) Engage in fraudulent business practices;	1008
(V) Dispose of any pesticide product or container in such	1009
a manner as to have unreasonable adverse effects on the	1010
environment;	1011

(W) Display any pesticide in any manner to produce 1012
 unreasonable adverse effects on the environment, or to 1013
 contaminate adjacent food, feed, or other products; 1014

(X) Apply any pesticide by aircraft without being licensed 1015
 as a commercial applicator; 1016

(Y) Distribute a pesticide that is not registered with the 1017
 director; 1018

(Z) Fail to properly supervise a trained serviceperson." 1019
 Update the title, amend, enact, or repeal clauses accordingly 1020

The motion was _____ agreed to.

SYNOPSIS

Pesticide Law changes

R.C. 921.01, 921.02, 921.06, 921.09, 921.11 - 921.14, 1023
921.16, 921.23, and 921.24 1024

Restores provisions from the House-passed version of the 1025
 bill governing pesticides that do all of the following: 1026

1. Require restricted use pesticides to be applied 1027
 exclusively by a licensed commercial pesticide applicator or 1028
 licensed private pesticide applicator, rather than allowing a 1029
 commercial applicator's trained service person or a private 1030
 applicator's immediate family or employee to apply those 1031
 pesticides under the direct supervision of the licensed 1032
 applicator; 1033

2. Regarding restricted use pesticides, expand the 1034

activities which require a license to include both of the 1035
following: 1036

--Performing pre-application activities involving mixing 1037
and loading restricted use pesticides; and 1038

--Performing other pesticide-related activities, including 1039
transporting or storing pesticide containers that have been 1040
opened, cleaning equipment, and disposing of excess pesticides, 1041
spray mix, equipment wash waters, pesticide containers, and 1042
other pesticide-containing materials. 1043

3. Require each pesticide business location to be 1044
licensed, rather than requiring one license for the pesticide 1045
business and the registration of each location that is owned by 1046
the person operating the pesticide business; 1047

4. Make non-refundable the existing \$150 pesticide 1048
registration and inspection fee required for each product name 1049
and brand registered by a company; 1050

5. Require a pesticide dealer to maintain records of all 1051
the restricted use pesticides the dealer has distributed (rather 1052
than requiring the dealer to submit those records to the 1053
Director as in current law); 1054

6. Increase the number of days that the Director may 1055
suspend a license, permit, or registration prior to a hearing 1056
concerning a violation from ten to 30 days; 1057

7. In addition to other reasons for denying, suspending, 1058
revoking, refusing to renew, or modifying any license, permit, 1059
or registration, add that the Director may take any of those 1060
actions if an applicant or holder of a license, permit, or 1061
registration has entered into an administrative or judicial 1062

settlement under the federal Insecticide, Fungicide, and 1063
Rodenticide Act. 1064

Restores provisions of House-passed version of the bill 1065
that increase the fees relating to the annual registration of a 1066
pesticide sold or distributed in Ohio as follows: 1067

1. From \$150 to \$250 for each product name and brand 1068
registered for the company whose name appears on the pesticide 1069
label; 1070

2. From \$75 to \$125 the penalty fee for late registration 1071
renewal; and 1072

3. From \$75 to \$125 the penalty fee for each product name 1073
and brand of a non-registered pesticide that is distributed in 1074
Ohio before registration. 1075

Requires an applicant for a pesticide applicator license 1076
to pay an examination fee of \$30. 1077