

**ASSEMBLY BILL**

**No. 405**

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**Introduced by Assembly Member Montanez**

February 15, 2005

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An act to amend Sections 17609 and 17610.5 of, and to add Sections 17610.1 and 17610.2 to, the Education Code, relating to schoolsites.

LEGISLATIVE COUNSEL'S DIGEST

AB 405, as introduced, Montanez. Toxics

Existing law, the Healthy Schools Act of 2000, provides that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and requires that the state take the necessary steps, pursuant to specified provisions, to facilitate the adoption of effective least management practices at schoolsites. The existing act requires each schoolsite to maintain records of all pesticide use at the schoolsite for a period of 4 years and to make the records available to the public upon request. The existing act requires, on an annual basis, the school district designee to provide to all staff and parents or guardians of pupils enrolled at a school written notification addressing, among other things, expected pesticide use. The existing act requires that the recipients be afforded the opportunity to register with the school district to receive information regarding individual pesticide applications. The existing act requires the school district designee to post warning signs prior to application of pesticides at a schoolsite.

This bill would prohibit the use on a schoolsite of a pesticide that is granted conditional registration or an experimental use permit by the Department of Pesticide Regulation or the United States Environmental Protection Agency for specified reasons. The bill

would prohibit the use on a schoolsite of a pesticide that is identified by those agencies for cancellation of registration or for phase out of use. The bill would also prohibit a vendor or manufacturer from making those pesticides available to a school district either by sale or by gift. The bill would also prohibit the use of a pesticide on a schoolsite when a pupil is located in, on, or around the area of the pesticide treatment, and would restrict the area of the pesticide treatment from pupil use for 24 hours following the end of the treatment, except when the pesticide used is the least toxic pesticide, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The maintenance of a safe, clean, healthy environment for
- 4 pupils is essential to learning and is a goal of the state.
- 5 (b) The use of toxic chemicals to control pests and weeds may
- 6 itself threaten pupil health and ability.
- 7 (c) The National Education Association and numerous other
- 8 national and local public interest organizations support the
- 9 reduction or elimination of pesticide use in schools.
- 10 (d) Pesticides contain toxic substances, many of which have a
- 11 detrimental effect on human health and the environment and, in
- 12 particular, have a developmental effect on children. Children are
- 13 more susceptible to hazardous impacts from pesticides than are
- 14 adults.
- 15 (e) Information regarding the utilization of pesticides in
- 16 schools that have a conditional registration or an experimental
- 17 use permit is not maintained in a manner that is useful to the
- 18 public, making it difficult to assess and address the potential
- 19 health and environmental impact of their use in schools.
- 20 (f) Historically, pesticide products that have conditional
- 21 registration or experimental use permits are sold and used for
- 22 years without completing outstanding data requirements. This
- 23 significant flaw can allow for chemicals with incomplete
- 24 databases to be used in schools, increasing undue exposure
- 25 potential to pupils.

1 SEC. 2. Section 17609 of the Education Code is amended to  
2 read:

3 17609. The definitions set forth in this section govern the  
4 construction of this article, unless the context clearly requires  
5 otherwise:

6 (a) “Antimicrobial” means those pesticides defined by the  
7 Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
8 Sec. 136(mm)).

9 (b) “Crack and crevice treatment” means the application of  
10 small quantities of a pesticide consistent with labeling  
11 instructions in a building into openings such as those commonly  
12 found at expansion joints, between levels of construction and  
13 between equipment and floors.

14 (c) “Emergency conditions” means any circumstances in  
15 which the school district designee deems that the immediate use  
16 of a pesticide is necessary to protect the health and safety of  
17 pupils, staff, or other persons, or the schoolsite.

18 (d) “School district designee” means the individual identified  
19 by the school district to carry out the requirements of this article  
20 at the schoolsite.

21 (e) “Schoolsite” means any facility used for public day care,  
22 kindergarten, elementary, or secondary school purposes. The  
23 term includes the buildings or structures, playgrounds, athletic  
24 fields, school vehicles, or any other area of school property  
25 visited or used by pupils. “Schoolsite” does not include any  
26 postsecondary educational facility attended by secondary pupils  
27 or private day care or school facilities.

28 (f)(1) *“Least toxic pesticide” means any of the following:*

29 (A) *Boric acid and disodium octoborate tetrahydrate.*

30 (B) *Silica gels.*

31 (C) *Diatomaceous earth.*

32 (D) *Nonvolatile insect and rodent baits in tamper-resistant*  
33 *containers for crack and crevice treatment only.*

34 (E) *Microbe-based pesticides.*

35 (F) *Pesticides made with essential oils, not including synthetic*  
36 *pyrethroids, without toxic synergists.*

37 (G) *Materials for which the inert ingredients are nontoxic and*  
38 *disclosed.*

39 (2) *“Least toxic pesticide” does not include any of the*  
40 *following:*

1 (A) A pesticide that is determined by the United States  
2 Environmental Protection Agency to be a probable, likely, or  
3 known carcinogen or endocrine disruptor.

4 (B) A pesticide containing a chemical known to cause cancer  
5 or reproductive toxicity enumerated in accordance with Section  
6 25249.8 of the Health and Safety Code.

7 (C) A pesticide that is a mutagen, reproductive toxin,  
8 developmental neurotoxin, or immune system toxin.

9 (D) A pesticide that is classified by the United States  
10 Environmental Protection Agency as a toxicity I or II pesticide.

11 (E) A pesticide that is in the organophosphate or carbamate  
12 chemical family.

13 (F) A pesticide that contains an inert ingredient enumerated  
14 by "List 1: Inerts of Toxicological Concern," maintained by the  
15 United States Environmental Protection Agency.

16 (G) A pesticide that is applied using a broadcast spray, dust,  
17 tenting, fog, or baseboard spray.

18 SEC. 3. Section 17610.1 is added to the Education Code, to  
19 read:

20 17610.1. (a) (1) The use of a pesticide on a schoolsite is  
21 prohibited if that pesticide is granted a conditional registration or  
22 an experimental use permit by the Department of Pesticide  
23 Regulation or the United States Environmental Protection  
24 Agency for any of the following reasons:

25 (A) The pesticide contains a new active ingredient.

26 (B) The pesticide contains a new inert ingredient.

27 (C) The pesticide is intended for a new use.

28 (2) The use of a pesticide on a schoolsite is prohibited if that  
29 pesticide is identified by the Department of Pesticide Regulation  
30 or the United States Environmental Protection Agency for  
31 cancellation of registration or for phase out of use.

32 (b) Vendors or manufacturers of pesticides that are prohibited  
33 for use on a schoolsite pursuant to subdivision (a) are prohibited  
34 from furnishing those pesticides to school districts either by sale  
35 or by gift.

36 SEC. 4. Section 17610.2 is added to the Education Code, to  
37 read:

38 17610.2. (a) (1) A pesticide shall not be used on a schoolsite  
39 when a pupil is located in, on, or around the area of the pesticide  
40 treatment.

1 (2) The area of the pesticide treatment shall be restricted from  
2 pupil use for 24 hours following the end of the treatment.

3 (b) This section does not apply to the use of a least toxic  
4 pesticide.

5 (c) This section does not limit the authority of a school district  
6 to adopt more stringent policies regarding the use of a pesticide  
7 on a schoolsite.

8 SEC. 5. Section 17610.5 of the Education Code is amended to  
9 read:

10 17610.5. Sections *17610.2*, *17611*, and *17612* ~~shall~~ *do not*  
11 *apply to a pesticide product deployed in the form of a*  
12 *self-contained bait or trap, to gel or paste deployed as a crack and*  
13 *crevice treatment, to any pesticide exempted from regulation by*  
14 *the United States Environmental Protection Agency pursuant to*  
15 *the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.*  
16 *Sec. 136 et seq.), or to antimicrobial pesticides, including*  
17 *sanitizers and disinfectants.*