

Introduced by Senator DeSaulnierFebruary 21, 2014

An act to amend Sections 17609, 17610, 17611, and 17612 of, and to add Sections 17611.5 and 17614 to, the Education Code, and to amend Sections 13181, 13182, 13183, and 13187 of, and to add Section 13186.5 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, as introduced, DeSaulnier. Pesticides: school facilities.

(1) Existing law, the Healthy Schools Act of 2000, requires each schoolsite to maintain records of all pesticide use at the schoolsite for a period of 4 years and to make these records available to the public upon request, as specified. Existing law authorizes a schoolsite to meet these requirements by retaining a copy of the warning sign posted for each pesticide application, as specified, and recording on the copy the amount of pesticide used. Existing law requires a schoolsite or school district to identify an individual, known as a school designee, to carry out the requirements of the act.

This bill, if a school chooses to use certain pesticides, would require the school designee, at the end of each school year, or more often at his or her discretion, to submit to the Director of Pesticide Regulation a copy of the records, as specified, of all pesticide use at the schoolsite. The bill, if a school chooses to use certain pesticides, would require the school designee to develop and post on the Internet Web site of the schoolsite an integrated pest management plan for the schoolsite or school district, except if the schoolsite does not maintain an Internet Web site, the school designee would be required to include the integrated pest management plan with a certain annual notification sent to parents or guardians of pupils enrolled at the schoolsite. The bill would authorize

a school designee to do these things related to an integrated pest management plan if the school does not choose to use certain pesticides.

(2) Existing law requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites that voluntarily choose to do so, excluding privately operated child day care facilities. For these schoolsites, existing law requires the department to establish an integrated pest management program for schoolsites. Existing law, in establishing the program, requires the department to develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite and develop a model program guidebook, as specified, that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. Existing law provides that a violation of the laws, and the regulations adopted pursuant to those laws, relating to pesticides is generally a misdemeanor.

This bill would require the Department of Pesticide Regulation to develop a training program to train any person who plans to apply pesticides on a schoolsite, and would require the training program to cover the safe use of pesticides and integrated pest management. The bill would authorize the training program to be developed as a web-based training through a 3rd party. The bill would also require any person hired to, or who in the course of his or her work plans to, apply a pesticide at a schoolsite subject to the act, to annually complete a training provided by the department or an agency authorized by the department. The bill would require the training to include safe pesticide use and integrated pest management. Because failure to complete the training would be a crime, the bill would impose a state-mandated local program.

(3) This bill would make conforming changes and various nonsubstantive changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 17609 of the Education Code is amended
2 to 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. Sec.
8 136(mm)).

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

14 (c) “Emergency conditions” means any circumstances in which
15 the school designee or a property owner of a property where a
16 privately operated child day care facility is located, or the property
17 owner’s agent, deems that the immediate use of a pesticide is
18 necessary to protect the health and safety of pupils, staff, or other
19 persons, or the schoolsite.

20 (d) *“Integrated pest management plan” means a written plan*
21 *based on a template provided or approved by the Department of*
22 *Pesticide Regulation that outlines a strategy for integrated pest*
23 *management, as described in Section 13181 of the Food and*
24 *Agricultural Code.*

25 ~~(e)~~

26 (e) “School designee” or “IPM coordinator” means the
27 individual identified by a schoolsite or school district to carry out
28 the requirements of this article at the schoolsite.

29 ~~(e)~~

30 (f) “Schoolsite” means any facility used as a child day care
31 facility, as defined in Section 1596.750 of the Health and Safety
32 Code, or for kindergarten, elementary, or secondary school
33 purposes. The term includes the buildings or structures,
34 playgrounds, athletic fields, vehicles, or any other area of property
35 visited or used by pupils. “Schoolsite” does not include any
36 postsecondary educational facility attended by secondary pupils
37 or private kindergarten, elementary, or secondary school facilities.

1 For child day care facilities, the State Department of Social
 2 Services shall serve as the liaison to these facilities, as needed.

3 SEC. 2. Section 17610 of the Education Code is amended to
 4 read:

5 17610. (a) It is the policy of the state that effective least toxic
 6 pest management practices should be the preferred method of
 7 managing pests at schoolsites and that the state, in order to reduce
 8 children’s exposure to toxic pesticides, shall take the necessary
 9 steps, pursuant to Article 17 (commencing with Section 13180)
 10 of Chapter 2 of Division 7 of the Food and Agricultural Code, to
 11 facilitate the adoption of effective least toxic pest management
 12 practices at schoolsites. It is the intent of the Legislature ~~to~~
 13 ~~encourage appropriate training to be provided to~~ *that all school*
 14 *personnel involved in the application of a pesticide at a schoolsite*
 15 *be trained in the safe use of pesticides and integrated pest*
 16 *management.*

17 (b) (1) (A) A property owner of a property where a child day
 18 care facility is located, or the property owner’s agent, who
 19 personally applies any pesticides on ~~any~~ *an* area listed in paragraph
 20 (2) shall provide notice to the child day care facility as described
 21 in paragraph (3) at least 120 hours before the application, unless
 22 an emergency condition, as defined in Section 17609, exists.

23 ~~An~~
 24 (B) *An* owner of property on which a child day care facility is
 25 located shall be subject to the requirement to provide notice
 26 pursuant to this subdivision 30 days after it has received notice
 27 from a child day care facility of its presence at the property, unless
 28 the property owner, or his or her agent, received that notice
 29 pursuant to paragraph (1) of subdivision (d) of Section 1597.40 of
 30 the Health and Safety Code ~~prior to~~ *before* the effective date of
 31 this subdivision in which case the property owner ~~will~~ *shall* be
 32 subject to the notice requirements on and after the effective date
 33 of this subdivision.

34 (2) This subdivision applies when a property owner or his or
 35 her agent ~~intend~~ *intends* to personally apply pesticides on any of
 36 the following:

37 (A) Inside the rented premises on which *the* child day care
 38 facility is located.

39 (B) Upon a designated child day care facility playground
 40 designated by the property owner.

1 (C) Upon an area designated for use by the child day care
2 facility.

3 (D) Upon an area within 10 feet of the perimeter of the child
4 day care facility.

5 (3) The notice required by paragraph (1) shall include the
6 following:

7 (A) The product name.

8 (B) The manufacturer's name.

9 (C) The active ingredients of each pesticide.

10 (D) The United States Environmental Protection Agency's
11 product registration number.

12 (E) The intended date of application.

13 (F) ~~Those~~ *The* areas of application listed in paragraph (2).

14 (G) The reason for application.

15 (4) A notice of pesticide application provided to a tenant
16 pursuant to subdivision (d) of Section 13186 of the Food and
17 Agricultural Code shall satisfy the notice requirements of this
18 section.

19 (5) If the child day care facility ceases to operate on the property,
20 the provisions of this act shall no longer apply to the property.

21 SEC. 3. Section 17611 of the Education Code is amended to
22 read:

23 17611. (a) Each schoolsite shall maintain records of all
24 pesticide use at the schoolsite for a period of four years, and shall
25 make this information available to the public, upon request,
26 pursuant to the California Public Records Act (Chapter 3.5
27 (commencing with Section 6250) of Division 7 of Title 1 of the
28 Government Code). A schoolsite may meet the requirements of
29 this section by retaining a copy of the warning sign posted for each
30 application required pursuant to Section 17612, and recording on
31 that copy the amount of the pesticide used.

32 (b) (1) *If a school chooses to use a pesticide not included within*
33 *Section 17610.5, at the end of each school year, or more often at*
34 *the discretion of a school designee, the school designee shall*
35 *submit to the Director of Pesticide Regulation a copy of the records*
36 *of all pesticide use at the schoolsite for the school year. The*
37 *records submitted to the Director of Pesticide Regulation, including*
38 *copies of the warning signs posted for each application required*
39 *pursuant to Section 17612, shall include all of the following:*

40 (A) *The name of a contact person for the schoolsite.*

1 (B) *The name and address of the schoolsite, or the department*
2 *code or licensed child day care facility number indicating if the*
3 *site is an elementary or secondary school facility, or a child day*
4 *care facility.*

5 (C) *The product name, manufacturer’s name, the federal*
6 *Environmental Protection Agency’s product registration number*
7 *and the amount used, including the unit of measurement.*

8 (D) *The date and areas of application and the targeted pest.*

9 (2) *The report submitted pursuant to paragraph (1) shall not*
10 *include pesticide use reported pursuant to subdivision (c) of Section*
11 *13186 of the Food and Agricultural Code.*

12 SEC. 4. Section 17611.5 is added to the Education Code, to
13 read:

14 17611.5. (a) The school designee may develop and post on
15 the Internet Web site of the schoolsite an integrated pest
16 management plan for the schoolsite or the school district. If the
17 schoolsite does not maintain an Internet Web site, the school
18 designee may include the integrated pest management plan with
19 the annual notification sent to parents or guardians of pupils
20 enrolled at the schoolsite pursuant to Section 17612. The integrated
21 pest management plan shall include the name of the school
22 designee or IPM coordinator and include the pesticides applied at
23 the schoolsite by school employees and licensed pest control
24 applicators.

25 (b) If a school chooses to use a pesticide not included within
26 Section 17610.5, the school designee shall develop and post on
27 the Internet Web site of the schoolsite an integrated pest
28 management plan for the schoolsite or the school district. If the
29 schoolsite does not maintain an Internet Web site, the school
30 designee shall include the integrated pest management plan with
31 the annual notification sent to parents or guardians of pupils
32 enrolled at the schoolsite pursuant to Section 17612. The integrated
33 pest management plan shall include the name of the school
34 designee or IPM coordinator and include the pesticides applied at
35 the schoolsite by school employees and licensed pest control
36 applicators.

37 SEC. 5. Section 17612 of the Education Code is amended to
38 read:

39 17612. (a) The school designee shall annually provide to all
40 staff and parents or guardians of pupils enrolled at a schoolsite a

1 written notification of the name of all pesticide products expected
2 to be applied at the schoolsite during the upcoming year. The
3 notification shall identify the active ingredient or ingredients in
4 each pesticide product. The notice shall also contain the Internet
5 address used to access information on pesticides and pesticide use
6 reduction developed by the Department of Pesticide Regulation
7 pursuant to Section 13184 of the Food and Agricultural Code and
8 may contain other information deemed necessary by the school
9 designee. No other written notification of pesticide applications
10 shall be required by this act except as follows:

11 (1) In the written notification provided pursuant to this
12 subdivision, the school designee shall provide the opportunity for
13 recipients to register with the schoolsite if they wish to receive
14 notification of individual pesticide applications at the schoolsite.
15 Persons who register for notification shall be notified of individual
16 pesticide applications at least 72 hours ~~prior to~~ *before* the
17 application. The notice shall include the product name, the active
18 ingredient or ingredients in the product, and the intended date of
19 application.

20 (2) If a pesticide product not included in the annual notification
21 is subsequently intended for use at the schoolsite, the school
22 designee shall, consistent with this subdivision and at least 72
23 hours ~~prior to~~ *before* application, provide written notification of
24 its intended use.

25 (b) The school designee shall make every effort to meet the
26 requirements of this section in the least costly manner. Annual
27 notification by a school district to parents and guardians shall be
28 provided pursuant to Section 48980.3. Any other notification shall,
29 to the extent feasible and consistent with the act adding this article,
30 be included as part of any other written communication provided
31 to individual parents or guardians. ~~Nothing in this~~ *This* section
32 shall *not* require the school designee to issue the notice through
33 first-class mail, unless he or she determines that no other method
34 is feasible.

35 (c) Pest control measures taken during an emergency condition
36 as defined in Section 17609 shall not be subject to the requirements
37 of paragraphs (1) and (2) of subdivision (a). However, the school
38 designee or property owner shall make every effort to provide the
39 required notification for an application of a pesticide under
40 emergency conditions.

1 (d) The school designee shall post each area of the schoolsite
2 where pesticides will be applied with a warning sign. The warning
3 sign shall prominently display the term “Warning/Pesticide Treated
4 Area” and shall include the product name, manufacturer’s name,
5 the United States Environmental Protection Agency’s product
6 registration number, intended date and areas of application, and
7 reason for the pesticide application. The warning sign shall be
8 visible to all persons entering the treated area and shall be posted
9 24 hours ~~prior to~~ before the application and remain posted until
10 72 hours after the application. In case of a pest control emergency,
11 the warning sign shall be posted immediately upon application
12 and shall remain posted until 72 hours after the application.

13 (e) Subdivisions (a) and (d) shall not apply to schools operated
14 by the Division of Juvenile Justice. The school administrator of a
15 school operated by the Division of Juvenile Justice shall notify the
16 chief medical officer of that facility at least 72 hours ~~prior to~~ before
17 application of pesticides. The chief medical officer shall take any
18 steps necessary to protect the health of pupils in that facility.

19 (f) This section and Section 17611 shall not apply to activities
20 undertaken at a school by participants in the state program of
21 agricultural vocational education, pursuant to Article 7
22 (commencing with Section 52450) of Chapter 9 of Part 28 of
23 *Division 4 of Title 2*, if the activities are necessary to meet the
24 curriculum requirements prescribed in Section 52454. ~~Nothing in~~
25 ~~this subdivision relieves~~ *This subdivision does not relieve* schools
26 participating in the state program of agricultural vocational
27 education of any duties pursuant to this section for activities that
28 are not directly related to the curriculum requirements of Section
29 52454.

30 (g) Sections 17610 to ~~17612~~, 17614, inclusive, shall not apply
31 to family day care homes or property owners of day care homes,
32 as defined in Section 1596.78 of the Health and Safety Code, or
33 their agents who personally apply any pesticides.

34 (h) If pesticide is applied by a property owner or his or her agent,
35 or by a pest control operator, failure to provide notice pursuant to
36 subdivision (b) of Section 17610 or subdivision (d) of Section
37 13186 of the Food and Agricultural Code shall relieve a privately
38 operated child day care facility from the requirements of this
39 section.

40 SEC. 6. Section 17614 is added to the Education Code, to read:

1 17614. A person, including a licensed pest control applicator,
2 who, in the course of his or her work intends to apply a pesticide
3 at a schoolsite subject to this article, shall annually complete a
4 training course provided by the Department of Pesticide Regulation
5 or an agent authorized by the Department of Pesticide Regulation.
6 The training shall include safe pesticide use and integrated pest
7 management.

8 SEC. 7. Section 13181 of the Food and Agricultural Code is
9 amended to read:

10 13181. (a) Notwithstanding any other ~~provision of law~~, for
11 purposes of this article, “integrated pest management” means a
12 pest management strategy that focuses on long-term prevention
13 or suppression of pest problems through a combination of
14 techniques such as monitoring for pest presence and establishing
15 treatment threshold levels, using nonchemical practices to make
16 the habitat less conducive to pest development, improving
17 sanitation, and employing mechanical and physical controls.
18 Pesticides that pose the least possible hazard and are effective in
19 a manner that minimizes risks to people, property, and the
20 environment, are used only after careful monitoring indicates they
21 are needed according to preestablished guidelines and treatment
22 thresholds. This definition shall apply only to integrated pest
23 management at school facilities and child day care facilities.

24 (b) *For purposes of this article “IPM coordinator” has the same*
25 *meaning as school designee or IPM coordinator, as those terms*
26 *are defined in subdivision (e) of Section 17609 of the Education*
27 *Code.*

28 SEC. 8. Section 13182 of the Food and Agricultural Code is
29 amended to read:

30 13182. It is the policy of the state that effective least toxic pest
31 management practices should be the preferred method of managing
32 pests at schoolsites and that the state, in order to reduce children’s
33 exposure to toxic pesticides, shall take the necessary steps, pursuant
34 to this article, to facilitate the adoption of effective least toxic pest
35 management practices at schoolsites. It is the intent of the
36 ~~Legislature to encourage appropriate training to be provided to~~
37 *that all school personnel involved in the application of pesticide*
38 *at a schoolsite be trained in the safe use of pesticides and integrated*
39 *pest management.*

1 SEC. 9. Section 13183 of the Food and Agricultural Code is
2 amended to read:

3 13183. (a) ~~The Department of Pesticide Regulation~~ *department*
4 shall promote and facilitate the voluntary adoption of integrated
5 pest management programs for schoolsites, excluding
6 privately-operated child day care facilities, as defined in Section
7 1596.750 of the Health and Safety Code, that voluntarily choose
8 to do so. For these schoolsites, the department shall do all of the
9 following:

10 (1) Establish an integrated pest management program for
11 schoolsites consistent with Section 13181. In establishing the
12 program, the department shall:

13 (A) Develop criteria for identifying least-hazardous pest control
14 practices and encourage their adoption as part of an integrated pest
15 management program at each schoolsite.

16 (B) Develop a model program guidebook that prescribes
17 essential program elements for schoolsites that have adopted a
18 least-hazardous integrated pest management program. At a
19 minimum, this guidebook shall include guidance on all of the
20 following:

21 (i) Adopting an IPM policy.

22 (ii) Selecting and training an IPM coordinator.

23 (iii) Identifying and monitoring pest populations and damage.

24 (iv) Establishing a community-based school district advisory
25 committee.

26 (v) Developing a pest management plan for making
27 least-hazardous pest control choices.

28 (vi) Contracting for integrated pest management services.

29 (vii) Training and licensing opportunities.

30 (viii) Establishing a community-based right-to-know standard
31 for notification and posting of pesticide applications.

32 ~~(xi)~~

33 (ix) Recordkeeping and program review.

34 (C) *Develop a training program to train any person who intends*
35 *to apply pesticides on a schoolsite. The training program shall*
36 *cover the safe use of pesticides and integrated pest management.*
37 *The training program may be developed as a web-based training*
38 *provided through a third party.*

1 (2) Make the model program guidebook available to schoolsites
2 and establish a process for systematically updating the guidebook
3 and supporting documentation.

4 (b) The department shall promote and facilitate the voluntary
5 adoption of integrated pest management programs at child day
6 care facilities, as defined in Section 1596.750 of the Health and
7 Safety Code, through the following:

8 (1) Modifying the department's existing integrated pest
9 management program for schoolsites as described in subdivision
10 (a) of Section 13183 for the child day care setting.

11 (2) Creating or modifying existing educational and informational
12 materials on integrated pest management for the child day care
13 setting.

14 (3) Making the materials available to child day care facilities
15 and establishing a process for systematically updating them.

16 SEC. 10. Section 13186.5 is added to the Food and Agricultural
17 Code, to read:

18 13186.5. A person hired to apply a pesticide at a schoolsite
19 subject to this article shall annually complete a training provided
20 by the department or an agent authorized by the department. The
21 training shall include safe pesticide use and integrated pest
22 management.

23 SEC. 11. Section 13187 of the Food and Agricultural Code is
24 amended to read:

25 13187. ~~Section~~ Sections 13186 and 13186.5 shall not apply to
26 any agency signatory to a cooperative agreement with the State
27 Department of *Public Health Services* pursuant to Section 116180
28 of the Health and Safety Code.

29 SEC. 12. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.