

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1157

Introduced by Senator DeSaulnier

February 18, 2010

An act to add Section 17615 to the Education Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as amended, DeSaulnier. Education: the Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts.

This bill, the Healthy Schools Act of 2010, would prohibit all public schools from using the most highly toxic pesticides, as listed, on school property. This bill would provide that its provisions would not apply to antimicrobial pesticides, products deployed in the form of a self-contained bait or trap, or as a crack and crevice treatment, agricultural uses, or activities undertaken by participants in agricultural vocational education, as specified.

The bill would authorize the ~~coordinator of the integrated pest management program, if the school district has established an integrated pest management program, or a school district designee, as defined, school principal to authorize the use of the most highly toxic pesticides, as defined under certain circumstances, and for a specified period of time.~~ Because the bill would impose new duties on school districts, it would constitute a state-mandated local program.

This bill would require ~~all manufactures who sell any of the most highly toxic pesticides, as defined, in California, to pay an unspecified~~

~~fee. The bill would establish the Healthy Schools Act of 2010 Fund. The bill would provide that moneys deposited in the fund from the fee be expended by the Director of Pesticide Regulation, upon appropriation by statute, for the purposes of the bill the Department of Pesticide Regulation, beginning January 1, 2011, and annually thereafter, to set an adequate fee on manufacturers or importers of the most highly toxic pesticides, as defined. The department must set the fee in an amount that is sufficient and limited to reimburse the department for the cost of administering, and school districts for the costs of implementing, this act.~~

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) Pesticides have been linked to numerous acute and chronic
- 4 illnesses, including cancer and asthma.
- 5 (2) Because children's bodies and brains are still developing,
- 6 exposure to pesticides can have detrimental and irreversible effects.
- 7 (3) A recent study reveals that female teachers have a
- 8 significantly higher cancer rate compared to other women of the
- 9 same age and race, including breast cancer, lymphoma, and
- 10 leukemia, which previous studies have shown are linked to
- 11 pesticides.
- 12 (4) Recognizing the impact of pesticides on the school
- 13 community, the Department of Pesticide Regulation has developed
- 14 an Internet Web site, written training materials, and conducted
- 15 regional training sessions to assist schools that have chosen to
- 16 adopt least-toxic integrated pest management techniques and to
- 17 eliminate use of the most dangerous pesticides.

(5) However, many California public schools continue to use highly toxic pesticides.

(6) It is necessary to take precautionary measures to protect the health and safety of California schoolchildren and teachers, and better ensure a safe learning and working environment.

(b) This act shall be known, and may be cited as, as the Healthy Schools Act of 2010.

SEC. 2. Section 17615 is added to the Education Code, to read:

17615. (a) No public school may use the most highly toxic pesticides on school property.

(b) For purposes of this section, “most highly toxic pesticides” means:

~~(1) Pesticide products containing N-methyl-carbamate or neurotoxic organophosphorus compounds.~~

(1) Pesticide products that are neurotoxic organophosphorus compounds, containing N-methyl-carbamate or cholinesterase inhibitors, as designated by the Materials Data Sheet of the Department of Pesticide Regulation, for the particular chemical.

(2) Pesticide products containing active ingredients rated by the United States Environmental Protection Agency as A or B carcinogens or substances listed as, known or likely carcinogens, known to be human carcinogens, probable human carcinogens as designated by the International Agency for Research for Cancer, the United States Environmental Agency, the United States National Toxicology Program, or pursuant to the Safe Drinking Water and Toxics Enforcement Act of 1986, and are likely to be human carcinogens, or suggestive of being human carcinogens, as described in the “List of Chemicals Evaluated for Carcinogenic Potential,” or known to the state to cause cancer as listed pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code).

(3) Pesticide products containing active ingredients that cause birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency or listed pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code) or as designated pursuant to the Safe Drinking Water and Toxics Enforcement Act of 1986.

1 (e)

2 (4) Pesticide products with high acute toxicity as defined by the
3 United States Environmental Protection Agency in Toxicity
4 Categories I and II, as defined in Part 156.62 of Title 40 of the
5 Code of Federal Regulations, *or designated by the World Health*
6 *Organization or the United States National Toxicology Program*,
7 shall not be used unless the pest problem to be addressed cannot
8 be effectively managed with a lower risk pesticide.

9 ~~(d) The coordinator of the integrated pest management program,~~
10 ~~if the school district has established an integrated pest management~~
11 ~~program, or the school district designee, as defined in subdivision~~
12 ~~(d) of Section 17609, may permit the use of a most highly toxic~~
13 ~~pesticide if all of the following conditions are met:~~

14 ~~(1) An emergency condition exists.~~

15 ~~(2) The use of the pesticide is the lowest risk method available~~
16 ~~to address the problem.~~

17 ~~(3) The use is limited to a specific application site.~~

18 ~~(4) Every effort shall be made to ensure that the application site~~
19 ~~is clear of pupils, staff persons, and other persons not directly~~
20 ~~involved in the use of the pesticide.~~

21 ~~(5) The application site shall be posted in accordance with~~
22 ~~subdivision (d) of Section 17612.~~

23 ~~(6) The school district shall include a list of the materials used~~
24 ~~under emergency conditions, under the heading "Emergency Use~~
25 ~~of Pesticides Banned Under AB" in the next annual notification~~
26 ~~of intended pesticide use, as required by subdivision (a) of Section~~
27 ~~17612.~~

28 (c) *Any school principal may suspend the prohibitions specified*
29 *in this section if he or she finds that there is a pest control*
30 *emergency and all of the following conditions and definitions*
31 *apply:*

32 (1) *The school principal deems that the immediate use of a*
33 *banned pesticide is necessary to protect the health and safety of*
34 *pupils, staff, or other persons, or school property.*

35 (2) *The pesticides used under this subdivision are the lowest*
36 *risk available to address the problem.*

37 (3) *A suspension under this subdivision shall not last longer*
38 *than seven days and shall be limited to a specific application site.*

39 (4) *Students, staff, or other persons not directly involved in use*
40 *of the pesticides may not be present at the site during use of the*

pesticides, and the site shall be posted as required by the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code).

(5) The school principal shall notify the school district superintendent within 48 hours of pesticide application under this provision and include the following information, which shall be kept in a manner easily accessible to the public:

(A) The reasons for finding that a pest control emergency exists.

(B) The subsequent action taken by school personnel or outside contractors to control the pest control emergency, including the pesticides used, their active ingredients, the amount, their purpose, and which of the banned categories defined in subdivision (b).

(6) The district superintendent shall:

(A) Put notice of the exemption on the agenda of the school district's board of education for its review at its next scheduled meeting. No decision by the board is mandated by this bill.

(B) Provide to the relevant district board of education an annual summary of all exemptions used on school district property, which the board shall make easily accessible to the public.

(C) Include a list of the materials used under this emergency suspension provision, under the heading "Emergency Use of Banned Pesticides," in the school's first annual notification of intended pesticide use, as required under the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) following the emergency use.

(e)

(d) This section does not apply to any of the following:

~~(1) Antimicrobial pesticides, including sanitizers and disinfectants.~~

(1) Sanitizers and disinfectants.

(2) Pesticide products deployed in the form of a self-contained bait or trap.

(3) Gels or pastes deployed as crack and crevice treatment. "Crack and crevice treatment" means the application of small quantities of a pesticide, consistent with labeling instructions, in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

(4) Activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28 of Division 4 of Title 2, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(5) Agricultural uses.

(f)

(e) This section does not abrogate the authority of county health officers, the Department of Food and Agriculture, mosquito and vector control districts, the State Department of Public Health, or other state agencies that are responsible for pest management decisions that may affect public schools in California.

(g)

(f) This section does not preclude a school district from adopting stricter pesticide use policies or from enforcing stricter policies that have already been adopted.

(h)

(g) (1) A fund is hereby established in the State Treasury to be known as the Healthy Schools Act of 2010 Fund. Moneys deposited in this fund may be expended by the Director of Pesticides Regulation upon appropriation by statute, for the purposes of implementing this section.

~~(2) All manufacturers who sell any of the most highly toxic pesticides, as defined by this section in California shall pay a fee of (\$____) per year, to be deposited into the Healthy Schools Act of 2010 Fund, to defray costs of implementing this section.~~

(2) The Department of Pesticide Regulation shall, beginning January 1, 2011, and annually thereafter, set the amount of a fee on manufacturers or importers of the most highly toxic pesticides, as defined by this section, that the department determines to be sufficient and limited to reimburse the department for the cost of administering the Healthy Schools Act of 2010, and reimburse local agencies and school districts for costs of implementing this section.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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