

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 19, 2010

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: 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, commencing when specified funds are made available, would prohibit public schools from using any of the most highly toxic pesticides, as defined, on school property, except as specified. *If a highest risk pesticide is used, this bill would require school staff to submit a pesticide use report, as specified. The bill would require the Department of Pesticide Regulation to update its school integrated pest management program Internet Web site to facilitate identification of use of highest risk pesticides, as specified.*

The bill would authorize the coordinator of the integrated pest management program, or a school designee, as specified, to use the

most highly toxic pesticides, *in the case of an emergency condition, after consulting with program staff and the local public health official who has determined that a public health emergency exists*, if the requirements of the Healthy Schools Act of 2000 are met. *The bill would require a school district that uses highest risk pesticides to participate in training, provide notification of use to parents, and post the area of the schoolsite where those pesticides will be applied, as specified.* Because the bill would impose new duties on school districts, it would impose a state-mandated local program.

This bill would require the Department of Pesticide Regulation, beginning January 1, 2012, and annually thereafter, to set an adequate fee on manufacturers ~~or importers~~ *and brokers* of the most highly toxic pesticides, as defined. The bill would require the department to develop and adopt regulations to establish the amount of the fee, as specified.

(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 (2) *According to the federal Centers for Disease Control and*
8 *Prevention, children between 6 and 11 years of age have higher*
9 *levels of commonly used pesticides in their bodies than any other*
10 *age group, with an average of six pesticides per child. According*
11 *to research conducted by the University of California, San*
12 *Francisco, children's diseases and conditions linked to pesticide*
13 *exposure, which include learning disabilities, cancer of the brain*
14 *and leukemia, birth defects, and asthma, have increased*

1 *dramatically over the past 30 years. Because children's bodies*
 2 *and brains are still developing, exposure to pesticides can have*
 3 *irreversible detrimental effects.*

4 (3) Recognizing the impact of pesticides on the school
 5 community, the Department of Pesticide Regulation has developed
 6 an Internet Web site, written training materials, and conducted
 7 regional training sessions to assist schools that have chosen to
 8 adopt least-toxic integrated pest management techniques and to
 9 eliminate use of the most dangerous pesticides.

10 (4) However, many California public schools continue to use
 11 highly toxic pesticides. *Least-toxic pest management activities*
 12 *have actually decreased from 2004 to 2007, inclusive, as measured*
 13 *by the report titled, 2007 Integrated Pest Management Survey of*
 14 *California School Districts, prepared for the Department of*
 15 *Pesticide Regulation. Forty-two percent of school districts that*
 16 *responded to the survey stated that they were still broadcast*
 17 *spraying pesticides, one of the highest risk practices for exposing*
 18 *children and staff and contaminating the environment. Of the*
 19 *school districts that claimed to be implementing integrated pest*
 20 *management practices, 62 percent stated that the costs were the*
 21 *same or less than using chemical-intensive methods.*

22 (5) According to the State Department of Education, there are
 23 over 1,000 school districts, and about 9,900 schoolsites in
 24 California servicing over 6,000,000 pupils.

25 (5)

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

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

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

32 17615. (a) Commencing when funds are made available
 33 pursuant to subdivision ~~(g)~~ (i), a public school shall not use any
 34 of the most highly toxic pesticides on school property unless the
 35 pest problem to be addressed cannot be effectively managed with
 36 ~~a lower risk pesticide.~~ *an alternative lower risk method, it consults*
 37 *with the Department of Pesticide Regulation's school integrated*
 38 *pest management program staff, and the local public health officer*
 39 *determines that a public health emergency exists. School staff who*
 40 *use a highest risk pesticide shall submit a pesticide use report in*

1 *the same manner as contractors that use any pesticide in*
2 *accordance with the Healthy Schools Act of 2000 (Article 17*
3 *(commencing with Section 13180) of Chapter 2 of Division 7 of*
4 *the Food and Agricultural Code).*

5 *(b) For purposes of this section, “public school” has the same*
6 *meaning as “schoolsite” as defined in Section 17609.*

7 ~~(b)~~

8 *(c) For purposes of this section, “most highly toxic pesticides”*
9 *means any of the following:*

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

14 (2) Pesticide products containing active ingredients rated by the
15 United States Environmental Protection Agency as A or B
16 carcinogens or substances listed as, known or probable human
17 carcinogens as designated by the International Agency for Research
18 for Cancer, the United States Environmental Protection Agency,
19 the United States National Toxicology Program, or pursuant to the
20 Safe Drinking Water and Toxics Enforcement Act of 1986, and
21 are likely to be human carcinogens, or suggestive of being human
22 carcinogens, as described in the “List of Chemicals Evaluated for
23 Carcinogenic Potential,” or known to the state to cause cancer as
24 listed pursuant to the California Safe Drinking Water Act (Chapter
25 4 (commencing with Section 116270) of Part 12 of Division 104
26 of the Health and Safety Code).

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

35 (4) Pesticide products with high acute toxicity as defined by the
36 United States Environmental Protection Agency in Toxicity
37 Categories I and II, as defined in Part 156.62 of Title 40 of the
38 Code of Federal Regulations, or designated by the World Health
39 Organization or the United States National Toxicology Program.

(d) *The Department of Pesticide Regulation shall update its school integrated pest management program Internet Web site maintained pursuant to Section 13184 of the Food and Agricultural Code, for the purpose of ease in identifying highest risk pesticides from the pesticide use report data submitted by contractors in the most recent fiscal year.*

~~(e)~~

(e) (1) *In the case of an emergency condition as defined in subdivision (c) of Section 17609, the coordinator of the integrated pest management program, if the school district has established an integrated pest management program, or the school district designee, as defined in subdivision (d) of Section 17609, may permit the use of the most highly toxic pesticide if the pest problem to be addressed cannot be effectively managed with a lower risk method, and it consults with the Department of Pesticide Regulation's school integrated pest management program staff, the local public health officer determines that a public health emergency exists, and the provisions of the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) are met.*

(2) *Any use of highest risk pesticides must be identified on the pesticide use reports, required by Section 13186 of the Food and Agricultural Code, so that the Department of Pesticide Regulation school integrated pest management program staff are able to easily track school districts' use of exemption and highest risk pesticides. The Department of Pesticide Regulation shall review school integrated pest management program pesticide use reports on a quarterly basis, or more frequently, and require representatives of those school districts using highest risk pesticides to participate in its integrated pest management training program within six months. The department shall assist schools that have used highest risk pesticides in effectively utilizing the department's integrated pest management program Internet Web site, with its expansive links to safer alternatives for pest problems, in accordance with the Healthy Schools Act of 2000.*

(3) *Notification of exemption to use highest risk pesticide shall be provided to parents or guardians of pupils enrolled at a schoolsite in accordance with paragraph (2) of Section 17612. In addition, notification must include the highest risk category of the product used, the telephone numbers of the school integrated pest*

1 management coordinator or designated appointee and the local
2 county public health officer, and the Internet Web site address for
3 the Department of Pesticide Regulation school integrated pest
4 management program. In addition, this notice shall also be
5 provided to all staff employed at the schoolsite where the pesticide
6 will be applied.

7 (4) Each area of the schoolsite where the highest risk pesticide
8 will be applied shall be posted pursuant to subdivision (d) of
9 Section 17612. In addition, posting in both English and Spanish
10 shall include the toxicity category of the highest risk pesticide
11 product or products used and provide the following information:

12 (A) The telephone number of the school integrated pest
13 management coordinator or his or her designated appointee.

14 (B) The telephone number of the local county public health
15 officer.

16 (C) The Internet Web site for the Department of Pesticide
17 Regulation school integrated pest management program.

18 In addition, postings shall be placed in all likely points of entry
19 at distances no further than 20 feet apart if entry points are wider
20 than 40 feet. Postings shall be printed on paper that is at least
21 eight and one-half inches by 11 inches and placed in unobstructed
22 locations.

23 ~~(d)~~

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

25 (1) Sanitizers and disinfectants.

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

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

34 (4) Activities undertaken at a school by participants in the state
35 program of agricultural vocational education, pursuant to Article
36 7 (commencing with Section 52450) of Chapter 9 of Part 28 of
37 Division 4 of Title 2, if the activities are necessary to meet the
38 curriculum requirements prescribed in Section 52454. Nothing in
39 this subdivision relieves schools participating in the state program
40 of agricultural vocational education of any duties pursuant to this

1 section for activities that are not directly related to the curriculum
2 requirements of Section 52454.

3 (5) Agricultural uses.

4 ~~(e)~~

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

10 ~~(f)~~

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

14 ~~(g)~~

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

20 (2) The Department of Pesticide Regulation shall, beginning
21 January 1, 2012, and annually thereafter, set the amount of a fee
22 on manufacturers ~~or importers~~ and *brokers* of the most highly toxic
23 pesticides, as defined by this section, that the department
24 determines to be sufficient and limited to reimburse the department
25 for the cost of administering *and enforcing* the Healthy Schools
26 Act of 2010, and reimburse local agencies and school districts for
27 costs of implementing this section.

28 (3) The Department of Pesticide Regulation shall develop and
29 adopt regulations to establish the amount of an adequate fee for
30 purposes of this section. The department shall adopt regulations
31 for purposes of this subdivision in accordance with Chapter 3.5
32 (commencing with Section 11340) of Part 1 of Division 3 of Title
33 2 of the Government Code. The adoption, amendment, readoption,
34 or repeal of these regulations shall be considered by the Office of
35 Administrative Law as an emergency, and necessary for the
36 immediate preservation of the public peace, health, safety, and
37 general welfare. Notwithstanding any other provision of law, the
38 regulations shall remain in effect until amended by the department.
39 The department shall make available to the public, upon the
40 adoption of an emergency regulation establishing a new fee, the

1 information upon which the department has calculated, based, or
2 determined the new fee.

3 (4) The Department of Pesticide Regulation shall borrow moneys
4 from the Department of Pesticide Regulation Fund to cover the
5 department's costs in developing and adopting regulations and
6 establishing a fee for purposes of this subdivision. The department
7 shall repay the loan using moneys from the Healthy Schools Act
8 of 2010 Fund as they become available.

9 (5) The Department of Pesticide Regulation shall use the
10 databases of all of the following public agencies and international
11 organizations in order to assess and identify the most highly toxic
12 pesticides *as defined in subdivision (c)*:

13 (A) State Department of Health Care Services.

14 (B) United States Environmental Protection Agency.

15 (C) United States Department of Health and Human Services.

16 (D) National Institutes of Health.

17 (E) World Health Organization.

18 (F) International Agency for Research on Cancer.

19 (G) European Union.

20 SEC. 3. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.