

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 117*

Short Title: Pesticide Law Amendments.

(Public)

Sponsors: Representative Wainwright.

Referred to: Agriculture, if favorable, Judiciary I.

February 7, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROHIBIT FARMERS FROM CONTRACTING FOR THE AERIAL
2 APPLICATION OF PESTICIDES IN RESTRICTED AREAS AND TO LIMIT THE
3 AMOUNT OF THE CIVIL PENALTY TO BE LEVIED BY THE PESTICIDE
4 BOARD IN CASES WHERE THERE IS ONLY VEGETATIVE DAMAGE IN THE
5 NONTARGET AREA.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 143-443(b) reads as rewritten:

9 "(b) It shall be unlawful:

10 (1) For any person to detach, alter, deface, or destroy, in whole or in part,
11 any label or labeling provided for in this Part or regulations promulgated
12 hereunder, or to add any substance to, or take any substance from a
13 pesticide in a manner that may defeat the purpose of this Part;

14 (2) For any person to use for his own advantage or to reveal, other than to
15 the Board or proper officials or employees of the State or federal
16 government or to the courts of this State in response to a subpoena, or to
17 physicians, or in emergencies to pharmacists and other qualified
18 persons, for use in the preparation of antidotes, any information relative
19 to formulas of products acquired by authority of G.S. 143-442.

20 (2a) Repealed by Session Laws 1981, c. 592, s. 3.

- 1 (3) For any person to use any pesticide in a manner inconsistent with its
2 labeling.
- 3 (4) For any person who contracts for the aerial application of a pesticide to
4 permit the application of any pesticide that is designated on its labeling
5 as toxic to bees without first notifying, based on available listings, the
6 owner or operator of any apiary registered under the North Carolina Bee
7 and Honey Act of 1977 that is within a distance designated by the
8 Pesticide Board as necessary and appropriate to prevent damage or
9 injury.
- 10 (5) For any person to distribute, sell or offer for sale any restricted use
11 pesticide to any dealer who does not hold a valid North Carolina
12 Pesticide Dealer License.
- 13 (6) For any person to contract with an aerial applicator to apply
14 pesticides within a restricted area in violation of a rule adopted by the
15 Board."

16 Sec. 2. G.S. 143-469(b) reads as rewritten:

17 "(b) A civil penalty of not more than two thousand dollars (\$2,000) may be
18 assessed by the Board against any person who:

- 19 (1) Sells or offers for sale any unregistered pesticide in violation of G.S.
20 143-442;
- 21 (2) Uses a pesticide in a manner inconsistent with its labeling;
- 22 (3) Stores or disposes of a pesticide or pesticide container by means other
23 than means prescribed on the labeling or regulations adopted pursuant to
24 this Article;
- 25 (4) Makes false or fraudulent claims about the effect of any pesticide or
26 method of application of a pesticide;
- 27 (5) Violates any stop sale, stop use, or removal order adopted under G.S.
28 143-447;
- 29 (6) Fails to provide names and addresses of recipients of pesticides which
30 are the subject of stop sale, stop use, or removal orders when the person
31 is the registrant of the pesticide or has sold or distributed the pesticide;
- 32 (7) Fails to make and keep records required by this Article, fails to make
33 reports when required by this Article or refuses to make such records
34 and reports available for audit or inspection by the Board or its agents;
- 35 (8) Falsifies all or part of any application for the registration of a pesticide
36 or the issuance or renewal of any license under this Article;
- 37 (9) Makes false statements or provides false information in connection with
38 any investigation conducted under this Article;
- 39 (10) Operates as a pesticide applicator, consultant or dealer without a license;
- 40 (11) Makes any restricted use pesticide available for use by any person other
41 than a certified private applicator, licensed pesticide applicator, certified
42 structural pest control applicator, or structural pest control licensee or an

1 employee working under the direct supervision of such applicator or
2 licensee.

3 (12) Distributes, sells or offers for sale any restricted use pesticide to any
4 dealer who does not hold a valid North Carolina Pesticide Dealer
5 License.

6 In determining the amount of any penalty, the Board may consider the degree and
7 extent of harm caused by the violation and the cost of rectifying the damage caused by
8 the violation. In cases where a violation occurs solely due to pesticide damage to
9 vegetation in a nontarget area, the amount of a civil penalty may not exceed the
10 reasonable value of the damaged vegetation unless the applicator has had a violation
11 within the past three years."

12 Sec. 3. This act becomes effective October 1, 1995, and applies to violations
13 occurring on or after that date.