

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jay R. Kaufman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to prevent the use of the most dangerous pesticides.

PETITION OF:

NAME:

Jay R. Kaufman

DISTRICT/ADDRESS:

15th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 781 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PREVENT THE USE OF THE MOST DANGEROUS PESTICIDES..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 132B of the General Laws is hereby amended by striking out, in
2 line 80, the words “food and agriculture” and inserting in place thereof the following words:-
3 agricultural resources.

4

5 SECTION 2. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after
6 “Fungi” the following definitions:-

7 “Health care facility,” a health care facility as defined in section nine C of chapter one
8 hundred and twelve.

9 “Hospital,” any hospital licensed under section fifty-one of chapter one hundred and
10 eleven, the teaching hospital of the University of Massachusetts Medical School and any
11 psychiatric facility licensed under section nineteen of chapter nineteen.

12

13 SECTION 3. Section 2 of chapter 132B of the General Laws is hereby amended by striking out
14 the definition of “Integrated pest management” and inserting in place thereof the following
15 definition:-

16 "Integrated pest management", a comprehensive strategy of pest control whose major
17 objective is to achieve desired levels of pest control in a way that minimizes public health risks
18 and environmental damage by combining multiple pest control measures to reduce the need for
19 reliance on chemical pesticides; more specifically, a combination of pest controls which
20 addresses conditions that support pests and may include, but is not limited to, the use of
21 monitoring techniques to determine immediate and ongoing need for pest control, increased
22 sanitation, physical barrier methods, crop rotation, training, the use of natural pest enemies and a
23 judicious use of lowest risk pesticides when necessary.

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25 SECTION 4. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after
26 “Pesticide” the following definition:-

27 “Pesticide advisory subcommittee,” the subcommittee created by section 3B of this
28 chapter.

29

30 SECTION 5. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after
31 “Plant regulator” the following definition:-

32 “Priority Toxic Pesticide,” any of the substances contained in the list promulgated by the
33 Pesticide Advisory Subcommittee pursuant to Section 3B of this chapter.

34

35 SECTION 6. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after
36 “Protect health and the environment” the following definitions:-

37 “Public building,” any building owned, occupied, or used by any public entity including
38 but not limited to the commonwealth and any county, city, town, authority, transit or school
39 district, or any agency or instrumentality thereof.

40 “Public housing,” any federal, state or municipally subsidized housing or housing project.

41

42 SECTION 7. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after
43 “Registrant” the following definition:-

44 “Retailer,” any private business that sells a product in the commonwealth.

45

46 SECTION 8. Chapter 132B of the General Laws is hereby amended by adding after section 3A
47 the following section:—

48 Section 3B. Pesticide advisory subcommittee. A subcommittee of the pesticide board
49 shall be the pesticide advisory subcommittee and shall create a list of priority toxic pesticides.

50 Said list shall be comprised of pesticides that are recognized as carcinogenic, mutagenic, or
51 toxic to development or reproduction when used as directed. This list will be subject to no
52 fewer than two public hearings in different regions of the commonwealth and an open public
53 comment period of not less than 90 days. The pesticide advisory subcommittee shall update
54 this list every two years or as health-related information becomes available regarding the
55 toxicity of pesticides not on the list. The subcommittee shall be appointed by the commissioner
56 of the department and shall consist of seven members: one representative from the Pesticide
57 Board who shall chair the subcommittee, one representative from the environmental
58 community, one representative from an occupational health group, one representative from
59 the public health community, one representative who is a physician or registered nurse, one
60 licensed pesticide applicator, and one representative from the University of Massachusetts at
61 Amherst Extension Integrated Pest Management Program.

62

63 SECTION 9. Within three months of the effective date of this section the pesticide advisory
64 subcommittee shall be appointed by the commissioner of the department of agricultural
65 resources pursuant to section 3B of chapter 132B.

66

67 SECTION 10. Section 6A of chapter 132B of the General Laws, as appearing in the 2004 Official
68 Edition, is hereby amended by inserting after the word "license", in line 7, the following words:-
69 No individual certified or licensed as a pesticide applicator shall use any priority toxic pesticide
70 as designated by the pesticide advisory subcommittee pursuant to section 3B of this chapter.

71 This restriction shall not apply to certified or licensed pesticide applicators when applying
72 priority toxic pesticides in commercial agricultural settings.

73 No state, municipality, school, daycare center, hospital, health care facility, or public
74 housing buildings or grounds, shall use or permit to be used any priority toxic pesticide.

75

76 SECTION 11. Section 7A of chapter 132B of the General Laws, is hereby amended by striking
77 out subsection (a) and inserting in place thereof the following subsection:—

78 Section 7A. (a) The department shall establish and implement a pesticide use reporting
79 system for use by government agencies, researchers, policy makers and the public to ensure
80 the public health and safety and to protect the environment of the commonwealth. In
81 establishing and implementing the system, said department shall design, develop and
82 implement the system in order to collect, evaluate, summarize, retain and report information
83 on the use of pesticides in each major category of use in the commonwealth, including
84 agriculture, forestry, industrial, commercial and homeowner uses. Said department shall, at
85 least one time each year, collect the best data practicable from each major category of
86 pesticide use. This shall include, but not be limited to, sales data from pesticide retailers in the
87 commonwealth and application data from each individual licensed or certified pesticide
88 applicator, including the location of the application of the pesticide. Data shall be collected in a
89 manner that will allow such data to be used for public health purposes, including, but not
90 limited to, epidemiological studies, and for environmental protection purposes. Such data shall

91 be collected in a manner which minimizes reporting costs. Said department shall begin
92 operation of the required statewide data reporting program on or before January 31, 2009.

93

94 SECTION 12. Section 7A of chapter 132B of the General Laws, is hereby amended by striking
95 out, in line 40, “2001”, and inserting in place thereof the following:- “2009.”

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97 SECTION 13. Section 7A of chapter 132B of the General Laws, is hereby amended by striking
98 out, in line 45, “2003”, and inserting in place thereof the following:- “2009.”

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100 SECTION 14. Subsection (c) section 7A of chapter 132B of the General Laws, is hereby
101 amended by adding the following sentence:- Said department shall develop a consistent format
102 for data reporting for each major category or use and post said information on the web site.

103

104 SECTION 15: Chapter 132B of the General Laws is hereby amended by striking out section 14
105 and inserting in place thereof the following section:—

106 Section 14. Any person who knowingly violates any provision of section 6 of this chapter
107 shall be punished by a fine of not less than one thousand dollars and not more than twenty-five
108 thousand dollars, or by imprisonment for not more than one year, or both such fine and
109 imprisonment, for each such violation, or shall be subject to a civil penalty not less than ten

110 thousand dollars and not to exceed twenty-five thousand dollars for each such violation, which
111 may be assessed in an action brought on behalf of the commonwealth in any court of competent
112 jurisdiction. Each day of violation shall constitute a separate offense.

113 Any person who violates any provision of sections 6A to 6K, inclusive, or section 7A,
114 who violates any regulation adopted under the provisions of this chapter, (a) shall be punished by
115 a fine of not more than one thousand dollars, or imprisonment for not more than six months, or
116 both such fine and imprisonment, for the second and each subsequent offense knowingly
117 committed, or (b), shall be subject to a civil penalty not to exceed ten thousand dollars for any
118 offense, which may be assessed in an action brought on behalf of the commonwealth in any court
119 of competent jurisdiction. Each day of violation shall constitute a separate offense.

120 Any person who violates any order issued under the provisions of this chapter, (a) shall
121 be punished by a fine of not less than one thousand dollars nor more than twenty-five thousand
122 dollars or imprisonment for not more than two years, or both such fine and imprisonment, for
123 each violation knowingly committed, or (b) shall be subject to a civil penalty not less than one
124 thousand dollars and not to exceed twenty-five thousand dollars for each violation, which may be
125 assessed in an action brought on behalf of the commonwealth in any court of competent
126 jurisdiction. Each day of violation shall constitute a separate offense.

127 The superior court shall have jurisdiction to enjoin violations of, or grant such relief as it
128 deems necessary or appropriate to secure compliance with, any provision of this chapter or the
129 terms of an order, license, certification, registration, permit or regulation issued or adopted
130 thereunder.