

HOUSE BILL 124

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Daymon Ely

AN ACT

RELATING TO AGRICULTURE; PROHIBITING THE USE OF CHLORPYRIFOS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 76-4-1 NMSA 1978 (being Laws 1973, Chapter 366, Section 1) is amended to read:

"76-4-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 4 NMSA 1978 may be cited as the "Pesticide Control Act"."

SECTION 2. Section 76-4-5 NMSA 1978 (being Laws 1973, Chapter 366, Section 5) is amended to read:

"76-4-5. PROHIBITED ACTS.--

A. It is unlawful for any person to distribute within the state, or to deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state, or use any of the following:

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underscored material = new
[bracketed material] = delete

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~~[bracketed material] = delete~~

1 (1) any pesticide ~~[which]~~ that has not been
2 registered in accordance with the Pesticide Control Act or
3 ~~[regulations]~~ rules adopted pursuant to that act;

4 (2) any pesticide if any of the claims made
5 for it or any of the directions for its use or other labeling
6 differs from the representations made in connection with its
7 registration or if the composition as represented in connection
8 with its registration differs. However, at the discretion of
9 the department, a change in the labeling of a pesticide, except
10 changes in the ingredient statement, may be made within a
11 registration period without requiring reregistration of the
12 product if the change will not have unreasonable adverse
13 effects on the environment;

14 (3) any pesticide, unless it is in the
15 unbroken immediate container of the registrant or manufacturer
16 and there is affixed to the container, and to the outside
17 container or wrapper of the retail package, if there is one
18 through which the required information on the immediate
19 container cannot be clearly read, a label bearing the
20 information required in the Pesticide Control Act and the
21 ~~[regulations]~~ rules adopted pursuant to that act;

22 (4) any pesticide ~~[which]~~ that has not been
23 colored or discolored as required by the Pesticide Control Act;

24 (5) any pesticide ~~[which]~~ that does not meet
25 the professed standard of quantity or quality, as expressed on

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1 the labeling under which it is sold, or in which any substance
2 has been substituted wholly or in part for the pesticide, or if
3 any valuable constituent has been wholly or in part abstracted
4 or if any contaminant is misbranded or is present in an amount
5 determined by the department to be a hazard;

6 (6) any device [~~which~~] that is misbranded;
7 [~~or~~]

8 (7) any pesticide in containers violating
9 [~~regulations~~] rules adopted pursuant to the Pesticide Control
10 Act or pesticides found in damaged containers [~~which~~] that
11 constitute a hazard to the environment; or

12 (8) any pesticide containing chlorpyrifos as
13 an active ingredient. As used in this paragraph,
14 "chlorpyrifos" means an organophosphate insecticide, acaricide
15 and miticide used primarily to control foliage- and soil-borne
16 insect pests on a variety of animals, buildings, food and feed
17 crops and in other settings.

18 B. It is unlawful:

19 (1) to distribute a restricted use pesticide
20 to any person who is required by law or [~~regulations~~] rules
21 promulgated pursuant to the Pesticide Control Act to have a
22 permit to use or purchase restricted use pesticides, unless the
23 person or [~~his~~] the person's agent to whom sale or delivery is
24 made has a valid permit to use or purchase the kind and
25 quantity of the restricted use pesticide. However, subject to

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1 conditions established by the department, [~~such~~] the permit may
2 be obtained from any person designated by the department
3 immediately prior to distribution;

4 (2) for any person to detach, alter, deface or
5 destroy, wholly or in part, any label or labeling provided for
6 in the Pesticide Control Act or [~~regulations~~] rules adopted
7 pursuant to that act or to add any substance to or take any
8 substance from a pesticide in a manner that may defeat the
9 purpose of the Pesticide Control Act or the [~~regulations~~] rules
10 adopted [~~thereunder~~] pursuant to that act;

11 (3) for any person to use or cause to be used
12 any restricted use pesticide contrary to directions on the
13 label or to [~~regulations~~] rules of the board if those
14 [~~regulations~~] rules differ from or further restrict the
15 labeling;

16 (4) for any person to use for [~~his own~~]
17 personal advantage or to reveal, other than to the department,
18 [~~or~~] to the courts of the state in response to a subpoena, [~~or~~]
19 to physicians or, in emergencies, to pharmacists and other
20 qualified [~~person~~] persons for use in the preparation of a
21 practical treatment, including first aid, in case of poisoning,
22 any information relative to formulas of products acquired by
23 authority of the Pesticide Control Act;

24 (5) for any person to handle, transport,
25 store, display, distribute or use pesticides in such a manner

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~~[bracketed material] = delete~~

1 as to endanger ~~[man and his]~~ humans or the environment or to
2 endanger food, feed or any other products that may be
3 transported, stored, displayed or distributed with ~~[such]~~ the
4 pesticides; or

5 (6) for any person to dispose of, discard or
6 store any pesticides or pesticide containers in a manner that
7 may cause injury to humans, vegetation, crops, livestock,
8 wildlife or pollinating insects or to pollute any water supply
9 or waterway."

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is January 1, 2021.