

HOUSE BILL No. 5121

October 2, 1989, Introduced by Reps. Saunders, Palamara, Honigman, DeMars, Kilpatrick, Kosteva, Gire, Gubow, Joe Young, Sr., Joe Young, Jr., Hood, Bennane, Hunter and Harrison and referred to the Committee on Agriculture.

A bill to amend sections 10 and 18 of Act No. 171 of the Public Acts of 1976, entitled as amended "Pesticide control act," as amended by Act No. 449 of the Public Acts of 1988, being sections 286.560 and 286.568 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 10 and 18 of Act No. 171 of the Public
2 Acts of 1976, as amended by Act No. 449 of the Public Acts of
3 1988, being sections 286.560 and 286.568 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 10. (1) The director may refuse to register or may
6 cancel or suspend registration of a pesticide if ANY OF THE FOL-
7 LOWING OCCUR:

8 (a) A pesticide does not warrant the proposed claims for it
9 or if the pesticide and its labeling and other material required

1 to be submitted do not comply with this act or the rules
2 promulgated under this act. The applicant shall be notified of
3 the manner in which the pesticide, labeling, or other material
4 required to be submitted fails to comply with this act. If, upon
5 receipt of the notice, the applicant does not make the required
6 changes within 30 days, the director may refuse to register the
7 pesticide.

8 (b) A registered pesticide or a pesticide proposed for reg-
9 istration under this act is in violation of this act or rules
10 promulgated under this act.

11 (c) Based on substantial scientific evidence, use of a pes-
12 ticide causes, or is likely to cause if the pesticide is regis-
13 tered, an unreasonable adverse effect.

14 (d) Based on substantial scientific evidence, use of a pes-
15 ticide causes, or is likely to cause if the pesticide is regis-
16 tered, an unreasonable, serious, chronic hazard to human health
17 or long-term environmental damage, which cannot be controlled by
18 designating the pesticide as a restricted use pesticide, by lim-
19 iting the uses for which a pesticide may be used or registered,
20 or by other changes to the registration or pesticide label.

21 (2) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
22 THAT ADDED THIS SUBSECTION, THE DIRECTOR SHALL NOT REGISTER THE
23 PESTICIDE COMMONLY KNOWN AS ALAR, OR ANY PESTICIDE THAT HAS DAMI-
24 NAZIDE AS AN ACTIVE INGREDIENT, AND SHALL CANCEL ANY REGISTRATION
25 IN EFFECT FOR THAT PESTICIDE.

26 Sec. 18. (1) The director may DO ANY OF THE FOLLOWING:

1 (a) Declare as a pest any form of plant or animal life,
2 except virus, nematodes, bacteria, or other microorganisms on or
3 in living human beings or other animals, which is injurious to
4 health or the environment.

5 (b) Determine the toxicity of pesticides to human beings.
6 The director shall use the data in support of registration and
7 classification as a guide in this determination.

8 (C) DETERMINE THAT THE USE OF A PESTICIDE ON AN AGRICULTURAL
9 COMMODITY POSES AN UNREASONABLE RISK TO HUMAN BEINGS RESULTING IN
10 THAT AGRICULTURAL COMMODITY BEING ADULTERATED AS DEFINED AND
11 DETERMINED UNDER THE MICHIGAN FOOD LAW OF 1968, ACT NO. 39 OF THE
12 PUBLIC ACTS OF 1968, BEING SECTIONS 289.701 TO 289.727 OF THE
13 MICHIGAN COMPILED LAWS. IN THAT CASE, THE DIRECTOR MAY DETAIN OR
14 EMBARGO THAT AGRICULTURAL COMMODITY PURSUANT TO SECTION 11 OF ACT
15 NO. 39 OF THE PUBLIC ACTS OF 1968, BEING SECTION 289.711 OF THE
16 MICHIGAN COMPILED LAWS.

17 (D) ~~(c)~~ Determine pesticides, and quantities of substances
18 contained in pesticides, which are injurious to the environment.
19 The director shall use the EPA regulations as a guide in this
20 determination.

21 (E) ~~(d)~~ Enter into cooperative agreements with agencies of
22 the federal government or any other agency of this state, or an
23 agency of another state for the purpose of carrying out this act
24 and securing uniformity of rules.

25 (F) ~~(e)~~ Enter upon any public or private premises or other
26 place, including vehicles of transport, where pesticides or
27 devices are being used or held for distribution or sale, for the

1 purposes of inspecting and obtaining samples of pesticides or
2 devices or to inspect equipment or methods of application.

3 (G) ~~(f)~~ Allow only certified applicators to apply a pesti-
4 cide that is classified as a restricted use pesticide pursuant to
5 subsection (2).

6 (2) In addition to any other authority provided by this act,
7 the director, by administrative order, may classify a pesticide
8 as a restricted use pesticide in accordance with any 1 of the
9 restrictive criteria in ~~53 F.R. 152.170, p. 15987 (May 4, 1988)~~
10 40 C.F.R. 152.170.

11 (3) Prior to classifying a pesticide as a restricted use
12 pesticide under subsection (2), the director shall issue a pre-
13 liminary administrative order and provide for a 30-day period for
14 public comment and review pertaining to the preliminary order.
15 Prior to issuing the final administrative order, the director
16 shall review and consider any public comments received during the
17 30-day period. An administrative order classifying a pesticide
18 as a restricted use pesticide shall cite each of the provisions
19 of subsection (2) that justify that classification.