HB 399 - AS INTRODUCED

2017 SESSION

17-0728
05/04

HOUSE BILL ***399***

AN ACT relative to pesticide use and notification in places where children play.

SPONSORS: Rep. McConnell, Ches. 12; Rep. Suzanne Smith, Graf. 8; Rep. O'Day, Ches. 11; Rep. Oxenham, Sull. 1; Rep. Fraser, Belk. 1; Rep. Elliott, Rock. 8; Rep. MacKenzie, Hills. 17; Rep. W. Pearson, Ches. 16; Sen. Feltes, Dist 15

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill restricts the use of pesticides in places where children play to situations in which alternative methods have been exhausted and the pesticide application is deemed necessary based on an imminent threat to public health. The bill also establishes notice requirements regarding any emergency pesticide application.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

17-0728
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to pesticide use and notification in places where children play.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subdivision; Pesticide Notification and Use Where Children Learn and Play. Amend RSA 430 by inserting after section 57 the following new subdivision:

Pesticide Notification and Use Where Children Learn and Play

430:58 Definitions. In this subdivision:

I. "Lawn care pesticide" means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to the Federal Insecticide Fungicide and Rodenticide Act for use in lawn, garden, and ornamental sites. Lawn care pesticide shall not include:

(a) A microbial pesticide or biochemical pesticide that is registered with the United States Environmental Protection Agency;

(b) A horticultural soap or oil that is registered with the United States Environmental Protection Agency and does not contain any synthetic pesticide or synergist;

(c) A pesticide classified by the United States Environmental Protection Agency as an exempt material pursuant to 40 C.F.R. 152.25, as amended; or

(d) A pesticide including no active ingredients other than those published in the National List at 7 C.F.R 205.601, as amended.

II. "Imminent threat to public health" means an unpredictable outbreak of a poisonous, stinging, or biting insect, or poisonous or stinging plant that threatens public health.

III. "Emergency pesticide application" means a situation where reasonable alternative methods to lawn care pesticide use have been exhausted, and an application of a lawn care pesticide is necessary based on an imminent threat to public health.

IV. "Community playground" means an outdoor area provided for children to play on, such as any outdoor area that contains any swing set, slide, climbing structure, playset, or device or object upon which children play, which is owned or controlled by the state of New Hampshire or any county, city, or town in the state.

V. "Community athletic field" means an expanse of open or cleared ground, maintained for the purpose of organized outdoor sports, and which is owned or controlled by the state of New Hampshire or any county, city, or town in the state.

VI. "Organized outdoor sports" means activities including, but not limited to football, baseball, and soccer, which are governed by a set of rules and are organized by a school district or nonprofit, including, but not limited to Pop Warner and Little League.

VII. "Child day care agency" means any person, corporation, partnership, voluntary

association, or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency, and shall include all types of child day care agencies defined in RSA 170-E:2.

VIII. "School" means any institution for educating children, including private and public schools, and chartered public schools, operating within the state of New Hampshire.

430:59 Emergency Pesticide Application; Notice Required.

I. No individual shall apply a lawn care pesticide to the grounds of any school, child day care agency, community playground, or community athletic field, except in the case of an emergency pesticide application, which is to be determined by county, city, or town board of health, or for a municipality not having a board of health, the governing body of the municipality shall select a designated health official.

II. All emergency pesticide applications are to be conducted by a commercial applicator as defined in RSA 430:29, or if not practicable, a certified applicator as defined in 40 C.F.R. 171.2(a)(8).

III. For a school or child day care agency, prior to an emergency pesticide application, at least 24 hours public notice shall be provided to staff and parents through reasonable means, including but not limited to, a written letter, email, or phone call, except that if such notice is not practicable, notification shall be given within 24 hours after an emergency pesticide application. Such notice shall include:

(a) The name of the active ingredient of the pesticide being applied.

(b) The brand name of the product and copy of the product label.

(c) The target pest.

(d) The location of the application.

(e) The date of application.

IV. For a community playground, prior to an emergency pesticide application, at least 24 hours public notice shall be provided to residents through reasonable means, including but not limited to the Internet website of the local government, except that if such notice is not practicable, notification shall be given within 24 hours after an emergency pesticide application. A copy of each notice of an emergency pesticide application shall be maintained by the local government for a period of 5 years. Such notice shall include:

(a) The name of the active ingredient of the pesticide being applied.

(b) The brand name of the product and copy of the product label.

(c) The target pest.

(d) The location of the application.

(e) The date of application.

V. For a community athletic field, prior to an emergency pesticide application, at least 24 hours public notice shall be provided to all coaches with teams scheduled to play on said athletic field anytime within the next 7 days, through reasonable means, including but not limited to the Internet website of the local government, except that if such notice is not practicable, notification

shall be given within 24 hours after an emergency pesticide application. All coaches shall notify the parents of all team members of the emergency pesticide application. A copy of each notice of an emergency pesticide application shall be maintained by the local government for a period of 5 years. Such notice shall include:

(a) The name of the active ingredient of the pesticide being applied.

(b) The brand name of the product and copy of the product label.

(c) The target pest.

(d) The location of the application.

(e) The date of application.

2 Effective Date. This act shall take effect 6 months after its passage.