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SENATE BILL NO. 1274

Senate Amendments in [] — February 4, 1999

A BILL to amend and reenact § 3.1-249.53 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.1-249.52:1, relating to pesticide application.

Patron—Quayle

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-249.53 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 3.1-249.52:1 as follows:

§ 3.1-249.52:1. Herbicide application to lakes, ponds and impoundments.

No commercial applicator or registered technician shall apply any herbicide to a [privately owned] lake, pond or impoundment without notifying residents of property that is adjacent to the lake [, pond or impoundment] and within [~~one-half~~ one quarter] mile of the application at least forty-eight hours prior to the application. Such notice shall include the date of the planned application, the type of herbicide to be used and the name and address of the commercial applicator or registered technician. Notice may be provided by mail or posted in conspicuous places of common access. [This section shall not apply to agricultural operations and privately owned lakes, ponds or impoundments located entirely on a single owner's property.]

§ 3.1-249.53. Agencies or persons exempt or partially exempt.

A. All state agencies, municipal corporations or other governmental agencies shall be subject to the provisions of this article and regulations adopted thereunder concerning the application of pesticides. These agencies shall be exempt from any certification fees prescribed by this article.

B. Individuals, employees or representatives certified pursuant to this section shall be certified as commercial applicators or registered technicians for the use of pesticides covered by the applicant's certification. The certification of such individual shall be valid only when applying or supervising application of pesticides used by such governmental agencies.

C. The provisions of this article, except those contained in subsection A of § 3.1-249.56, shall not apply to (i) persons conducting laboratory research involving restricted use pesticides; (ii) doctors of medicine or doctors of veterinary medicine applying pesticides as drugs or medication, or to control pests in corpses during the normal course of their practice; (iii) providers of janitorial, cleaning, or sanitizing services if the providers use no pesticides other than nonrestricted use sanitizers, disinfectants, and germicides; (iv) persons who apply paints containing pesticides, provided that the pesticides in the paints are not restricted use pesticides; (v) classes of persons, specified by regulations of the Board, who, by virtue of their experience and knowledge regarding the safe use of pesticides, can use or supervise the use of pesticides with minimal risk to the public health and safety; and (vi) classes of persons, specified by regulations of the Board, whose use or supervision of the use of pesticides, by virtue of the nature of the pesticides used or method of application of the pesticides, can be accomplished with minimal risk to the public health and safety.

D. A painter who applies restricted-use marine antifoulant paint only under the direct, on-site supervision of a commercial applicator, is not required to be a commercial applicator or a registered technician. For the purposes of this subsection, one commercial applicator shall provide on-site supervision for no more than eight paint applicators.

E. Neither the provisions of subsection A of § 3.1-249.52 nor regulations adopted pursuant to this chapter shall require the certification of any person as a commercial applicator who, as part of his job duties only on property owned or leased by his employer, uses or supervises the use of any pesticide that is not a restricted use pesticide. However, this exemption does not apply to (i) any person who uses or supervises the use of any pesticide on any area open to the general public at the following establishments: educational institutions, health care facilities, day-care facilities, and convalescent facilities; (ii) any person who uses or supervises the use of any pesticide within any area where open food is stored, processed or sold at any establishment; (iii) any person who uses or supervises the use of any pesticide on any recreational land over five acres in size; and (iv) any person applying an herbicide to a lake, pond or impoundment; and (v) any person otherwise specifically required by this article to be certified as a commercial applicator.

ENGROSSED

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