

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 445
SENATE BILL 388

AN ACT TO AMEND THE PESTICIDE LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-437(2) reads as rewritten:

"(2) To carry out a program of planning, environmental and biological monitoring, and of investigation into long-range needs and problems concerning pesticides. In order to encourage the cooperation of private property owners needed to implement the provisions of this subdivision, the Board may enter into agreements with private property owners to conduct sampling, testing, monitoring, and related activities on their property. Information obtained pursuant to these agreements shall not be disclosed in a manner that would permit the identification of an individual property owner unless the property owner has given permission to disclose the information."

Sec. 2. G.S. 143-442(e) reads as rewritten:

"(e) The Board is authorized and empowered to refuse to register, or to cancel the registration of any ~~of all~~ brands and grades of pesticides as herein provided, if the registrant fails or refuses to comply with the provisions of this Part, or any rules and regulations promulgated thereunder, or, upon satisfactory proof that the registrant or applicant has been guilty of fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this Part, or any rules and regulations promulgated thereunder. The Board may require the manufacturer or distributor of any pesticide, for which registration has been refused, cancelled, suspended or voluntarily discontinued or which has been found adulterated or deficient in its active ingredient, to remove such pesticide from the marketplace."

Sec. 3. G.S. 143-443(b) is amended by adding the following new subdivisions:

"(6) For any person to assault, resist, impede, intimidate, or interfere with any State employee while that employee is engaged in the performance of his or her duties under this Article.

"(7) For any person to apply, for compensation, a pesticide that has not been registered pursuant to G.S. 143-442."

Sec. 4. G.S. 143-448(c) reads as rewritten:

"(c) The license for a pesticide dealer may be renewed annually upon application to the Board, accompanied by a fee of ~~twenty five dollars (\$25.00)~~ thirty dollars

(\$30.00) for each license, on or before the first day of January of the calendar year for which the license is issued."

Sec. 5. G.S. 143-456(a) is amended by adding a new subdivision to read:

"(16) Failed to pay a civil penalty assessed under this Article within 30 days after the date it is assessed."

Sec. 6. G.S. 143-460(10) is repealed.

Sec. 7. G.S. 143-460(29) reads as rewritten:

"(29) 'Pesticide applicator' ~~includes~~ means any person who owns or ~~manages~~ operates a pesticide application business ~~which is engaged in the business of applying or who provides, for compensation, a service that includes the application of pesticides upon the lands or properties of another; any public operator; any golf course operator; any seed treater; any person engaged in demonstration or research pest control; and any other person who acts as a pesticide applicator~~ applies pesticides for compensation and is not exempt from this definition. It does not include:

- a. Any person who uses or supervises the use of a pesticide (i) only for the purpose of producing an agricultural commodity on property owned or rented by him or his employer, or (ii) only (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person, or (iii) only for the purposes set forth in (i) and (ii) above.
- b. Any person ~~regulated by~~ who applies pesticides for structural pest control, as defined in the North Carolina Structural Pest Control Law (G.S. Chapter 106, Article 4C).
- c. Any person certified by the Water Treatment Facility Operators Board of Certification under Article 2 of Chapter 90A of the General Statutes or by the Wastewater Treatment Operators Plant Certification Commission under Article 3 of Chapter 90A of the General Statutes who applies pesticides labeled for the treatment of water or wastewater.
- d. Any person who applies antimicrobial pesticides that are not classified for restricted use and are not being used for agricultural, horticultural, or forestry purposes.
- e. Any person who applies a general use pesticide to the property of another as a volunteer, without compensation.
- f. Any person who is employed by a licensed pesticide applicator."

Sec. 8. G.S. 143-465 is amended by adding the following new subsection:

"(d) No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, manufacture, or application of pesticides in any area subject to regulation by the Board

pursuant to this Article. Nothing in this section shall prohibit a county, city, or other political subdivision of the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising its fire prevention or inspection authority."

Sec. 9. G.S. 143-466(a) reads as rewritten:

"(a) The Board shall require licensees to maintain records with respect to the sale and application of such pesticides as it may from time to time prescribe. Such relevant information as the Board may deem necessary may be specified by ~~regulation.~~ rule. ~~Such~~ The records shall be kept for a period of three years from the date of the application of the pesticide to which ~~such~~ the records refer, and shall be available for inspection and copying by the Board or its agents at its request."

Sec. 10. G.S. 143-469(b) reads as rewritten:

"(b) A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Board against any person ~~who~~:

- ~~(1) Sells or offers for sale any unregistered pesticide in violation of G.S. 143-442;~~
- ~~(2) Uses a pesticide in a manner inconsistent with its labeling;~~
- ~~(3) Stores or disposes of a pesticide or pesticide container by means other than means prescribed on the labeling or regulations adopted pursuant to this Article;~~
- ~~(4) Makes false or fraudulent claims about the effect of any pesticide or method of application of a pesticide;~~
- ~~(5) Violates any stop sale, stop use, or removal order adopted under G.S. 143-447;~~
- ~~(6) Fails to provide names and addresses of recipients of pesticides which are the subject of stop sale, stop use, or removal orders when the person is the registrant of the pesticide or has sold or distributed the pesticide;~~
- ~~(7) Fails to make and keep records required by this Article, fails to make reports when required by this Article or refuses to make such records and reports available for audit or inspection by the Board or its agents;~~
- ~~(8) Falsifies all or part of any application for the registration of a pesticide or the issuance or renewal of any license under this Article;~~
- ~~(9) Makes false statements or provides false information in connection with any investigation conducted under this Article;~~
- ~~(10) Operates as a pesticide applicator, consultant or dealer without a license;~~
- ~~(11) Makes any restricted use pesticide available for use by any person other than a certified private applicator, licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee or an employee working under the direct supervision of such applicator or licensee.~~

~~(12) Distributes, sells or offers for sale any restricted use pesticide to any dealer who does not hold a valid North Carolina Pesticide Dealer License.~~

~~In determining the amount of any penalty, the Board may consider the degree and extent of harm caused by the violation and the cost of rectifying the damage caused by the violation. who violates or directly causes a violation of any provision of this Article or any rule adopted pursuant to this Article."~~

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 18th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives