

HOUSE BILL 637

Introduced by Becker, et al.

2/06	Introduced
2/06	Referred to Natural Resources
2/06	Fiscal Note Requested
2/06	First Reading
2/12	Fiscal Note Received
2/14	Fiscal Note Printed
2/15	Hearing
2/22	Committee Report--Bill Passed as Amended
2/25	2nd Reading Passed
2/26	3rd Reading Passed
	Transmitted by Senate
2/26	First Reading
2/26	Referred to Natural Resources
3/27	Hearing
4/02	Committee Report--Bill Not Passed
4/02	Adverse Committee Report Adopted

1 HOUSE BILL NO. 637
 2 INTRODUCED BY Barbara Cochran David
 3 Raymond Franklein Messmore Rufe
 4 Hoffman
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTIFICATION
 6 OF PESTICIDE APPLICATIONS WITHIN THE BOUNDARIES OF
 7 INCORPORATED CITIES AND TOWNS."

8 WHEREAS, pesticides that are applied to control insects,
 9 rodents, nematodes, fungi, weeds, and other forms of plant
 10 and animal life or viruses in and on lawns, gardens, trees,
 11 and landscape plants and around buildings may be hazardous
 12 to human health, especially if the pesticides are improperly
 13 applied; and

14 WHEREAS, persons who reside in or may be passing through
 15 an area where pesticides will be applied should be informed
 16 of the pesticide application and thereby given the
 17 opportunity to avoid unnecessary exposure to pesticides.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Notification of pesticide
 20 application. (1) A person applying a pesticide to a lawn or
 21 garden, to trees or landscape plants, or to the exterior of
 22 a building located within the boundaries of an incorporated
 23 city or town shall provide notification of the pesticide
 24 application, except as provided in subsection (3).
 25

1 (2) For a period beginning 48 hours prior to and ending
 2 72 hours after each pesticide application, the applicator
 3 shall post a sign or signs at conspicuous points of access
 4 to property and at reasonable intervals along rights-of-way
 5 sufficient to be clearly visible to persons immediately
 6 outside the perimeter of the property or to persons
 7 traveling along or entering the right-of-way. The sign or
 8 signs must:

9 (a) contain clearly legible, waterproof printing that
 10 includes:

11 (i) the word "caution" and the words "pesticide
 12 application";

13 (ii) the common or trade name and the chemical name of
 14 the pesticide to be applied;

15 (iii) the date of the pesticide application;

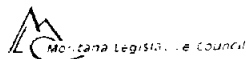
16 (iv) the name of the commercial applicator making the
 17 pesticide application, if applicable; and

18 (v) the telephone number of the applicator; and

19 (b) be no less than 80 square inches in size,
 20 fluorescent orange or yellow in color, and constructed of
 21 waterproof material that is designed to remain intact in
 22 outdoor conditions.

23 (3) The notification requirement does not apply to the
 24 following types of pesticide applications:

25 (a) applications of pesticides that are confined



LC 1099.01

1 entirely to the interior of a building;

2 (b) applications of pesticides that are injected
3 underground or otherwise injected directly into the target
4 medium, provided that the application does not involve
5 spraying of pesticides.

6 (4) Persons and businesses engaged in the retail sale
7 of pesticides for home, yard, garden, and lawn use pursuant
8 to 80-8-212 shall provide blank signs that conform to the
9 specifications established in subsection (2) for use by
10 pesticide applicators. Pesticide retailers may set and
11 collect a reasonable charge for the signs.

12 NEW SECTION. **Section 2.** Codification instruction.

13 [Section 1] is intended to be codified as an integral part
14 of Title 80, chapter 8, part 1, and the provisions of Title
15 80, chapter 8, part 1, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0637, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring notification of pesticide applications within the boundaries of incorporated cities and towns.

ASSUMPTIONS:

1. There are 128 incorporated cities with 56% of the state population or about 448,000 residents and 191,000 households.
2. The number of city parks, golf courses and related facilities; businesses; elementary, secondary and post-secondary schools that use pesticides in incorporated cities is unknown.
3. The estimated pesticide usage per year on exterior homes, yards, gardens, trees, landscape plants, etc. is 678,000 gallons and 85,000 pounds.
4. The 2,200 retailers would be notified of sign and posting requirements. Inspection of many retailers during the first and second year would probably be necessary; thereafter, 400-500 per year would require inspection.
5. Reusable signs would be provided at a reasonable cost by retailers. About 460,000 the first year; 230,000 the second year; and 50,000 per year thereafter.
6. People in incorporated cities would be notified by mass media of requirements at least once a year.
7. First time complaints will be resolved by telephone by explaining standards and requirements; subsequent complaints will require investigation. Some cities may wish to enter into contracts to handle investigations in the future.
8. Investigation of citizen complaints regarding individuals spraying pesticides in cities and not complying with posting/sign requirements will involve 1,500 to 3,000 households per year. The average time to investigate of 1 hour does not include travel, reports and correspondence.
9. Complaint investigations involving misuse of pesticides would increase the time needed to determine if violations of posting/signing and misuse occurred. Investigation time of 1.5 to 2 hours does not include travel, reports and correspondence.
10. 1.00 FTE Pesticide Specialist (grade 13) will be hired to supervise the program and conduct April to September inspections; October to March to conduct educational programs, resolve difficult cases, and train temporary inspectors and city contract personnel.
11. Employ 3 (.72 FTE) temporary inspectors (grade 8) for 3 months to handle summer complaint investigations.

FISCAL IMPACT:

see next page

 2-12-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

ARELE BECKER, PRIMARY SPONSOR DATE

Fiscal Note for HB0637, as introduced.

HB 637

Fiscal Note Request, HB0637, as introduced
 Form BD-15
 Page 2

FISCAL IMPACT:

Department of Agriculture:

Expenditures:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	6.00	7.72	1.72	6.00	7.72	1.72
Personal Services	165,373	202,060	36,687	165,373	202,060	36,687
Operating Expenses	<u>42,548</u>	<u>54,448</u>	<u>11,900</u>	<u>42,548</u>	<u>54,448</u>	<u>11,900</u>
Total	207,921	256,508	48,587	207,921	256,508	48,587
<u>Funding:</u>						
General Fund (01)	165,373	202,060	36,687	165,373	202,060	36,687
EPA Grant (03)	<u>42,548</u>	<u>54,448</u>	<u>11,900</u>	<u>42,548</u>	<u>54,448</u>	<u>11,900</u>
Total	207,921	256,508	48,587	207,921	256,508	48,587

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None. The department may, in the future, enter into cooperative agreements for administration of the posting/signing provisions of act and complaint investigations. Contracts with major incorporated cities are estimated to cost about \$4,600 per city per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Estimates of the number of complaint investigations and personnel required may need to be revised based upon experience gained in the 1993 biennium.

TECHNICAL NOTES:

The department suggests that this act, if approved by legislature, be effective January 1, 1992, to allow retailers time to obtain the required signs, to allow the department to employ and train the new pesticide specialist and the temporary inspectors, to inform the public in incorporated cities of the act requirements, and allow for meetings with cities to discuss possible cooperative agreements.

APPROVED BY COMM. ON NATURAL RESOURCES

HOUSE BILL NO. 637

INTRODUCED BY BECKER, COCCHIARELLA, DOWELL, BLAYLOCK, HOFFMAN, FRANKLIN, MESSMORE, O'KEEFE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTIFICATION OF PESTICIDE APPLICATIONS WITHIN THE BOUNDARIES OF INCORPORATED CITIES AND TOWNS."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL TO PROVIDE DIRECTION TO THE DEPARTMENT OF AGRICULTURE FOR ENFORCEMENT OF THE REQUIREMENTS OF [SECTION 1] RELATING TO NOTIFICATION OF PESTICIDE APPLICATIONS. PURSUANT TO THE PROVISIONS OF 80-8-306(3), IF THE DEPARTMENT RECEIVES A COMPLAINT THAT A PERSON OTHER THAN A LICENSED APPLICATOR HAS FAILED TO COMPLY WITH THE NOTIFICATION REQUIREMENTS OF [SECTION 1] AND THE COMPLAINT CONSTITUTES THE PERSON'S FIRST ALLEGED VIOLATION OF [SECTION 1], THE DEPARTMENT SHALL CONTACT THE PERSON BY TELEPHONE TO DISCUSS THE COMPLAINT AND TO INFORM THE PERSON OF THE REQUIREMENTS OF [SECTION 1]. IF THE DEPARTMENT RECEIVES A SECOND COMPLAINT THAT A PERSON HAS FAILED TO COMPLY WITH [SECTION 1], THE DEPARTMENT SHALL INVESTIGATE THE COMPLAINT CONSISTENT WITH THE DEPARTMENT'S EXISTING PROCEDURES FOR RESPONDING TO ALLEGED VIOLATIONS OF TITLE 80, CHAPTER 8.

WHEREAS, pesticides that are applied to control insects, rodents, nematodes, fungi, weeds, and other forms of plant and animal life or viruses in and on lawns, gardens, trees, and landscape plants and around buildings may be hazardous to human health, especially if the pesticides are improperly applied; and

WHEREAS, persons who reside in or may be passing through an area where pesticides will be applied should be informed of the pesticide application and thereby given the opportunity to avoid unnecessary exposure to pesticides.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Notification of pesticide application. (1) A person applying a pesticide TO CONTROL WEEDS OR INSECTS OR APPLYING A PESTICIDE to a lawn or garden, to trees or landscape plants, or to the exterior of a building located within the boundaries of an incorporated city or town shall provide notification of the pesticide application, except as provided in subsection (3) (5).

(2) For-a-period-beginning-48-hours-prior-to-and AT THE TIME OF EACH APPLICATION OF A PESTICIDE AND FOR A PERIOD ending 72 hours after each THE pesticide application, the applicator shall post a sign or signs at conspicuous points of access to property and at reasonable intervals along

1 rights-of-way sufficient to be clearly visible to persons
 2 immediately outside the perimeter of the property or to
 3 persons traveling along or entering the right-of-way. The
 4 sign or signs must:

5 (a) contain clearly legible, waterproof printing that
 6 includes:

7 (i) the word "caution" and the words "pesticide
 8 application";

9 (ii) the common or trade name and the chemical name of
 10 the pesticide to be applied;

11 (iii) the date of the pesticide application; AND

12 (iv) the name of the commercial applicator making the
 13 pesticide application, if applicable; and

14 ~~(v) the telephone number of the applicator; and~~

15 (b) be no less than 80 square inches in size,
 16 fluorescent orange or yellow in color, and constructed of
 17 waterproof material that is designed to remain intact in
 18 outdoor conditions.

19 (3) COMMERCIAL APPLICATORS MAY USE THEIR EXISTING SIGNS
 20 AND SIGN MATERIALS IN LIEU OF THE REQUIREMENTS OF SUBSECTION
 21 (2)(A) AND (2)(B) UNTIL JUNE 30, 1993. THEREAFTER,
 22 COMMERCIAL APPLICATORS' SIGNS MUST COMPLY WITH THE
 23 REQUIREMENTS OF SUBSECTION (2).

24 (4) IN LIEU OF THE NOTIFICATION REQUIRED BY SUBSECTION
 25 (2), A UNIT OF THE STATE, FEDERAL, OR LOCAL GOVERNMENT,

1 INCLUDING A WEED MANAGEMENT DISTRICT, MOSQUITO CONTROL
 2 DISTRICT, OR OTHER PUBLIC ENTITY, THAT APPLIES OR CAUSES TO
 3 BE APPLIED A PESTICIDE OVER ANY PORTION OF THE LAND AREA
 4 WITHIN ITS JURISDICTION THAT LIES WITHIN THE BOUNDARIES OF
 5 AN INCORPORATED CITY OR TOWN MAY PROVIDE PUBLIC NOTICE ON
 6 THE DAY OF THE INTENDED APPLICATION OR WITHIN 72 HOURS
 7 BEFORE THE INTENDED APPLICATION. THE PUBLIC NOTICE MUST
 8 INCLUDE:

9 (A) A GENERAL DESCRIPTION OF THE AREA WHERE THE
 10 PESTICIDE WILL BE APPLIED;

11 (B) THE COMMON OR TRADE NAME AND THE CHEMICAL NAME OF
 12 THE PESTICIDE TO BE APPLIED;

13 (C) THE DATE OF THE PESTICIDE APPLICATION; AND

14 (D) THE NAME OF THE UNIT OF GOVERNMENT OR OTHER PUBLIC
 15 ENTITY RESPONSIBLE FOR THE PESTICIDE APPLICATION AND THE
 16 NAME AND TELEPHONE NUMBER OF A PERSON WHO MAY BE CONTACTED
 17 BY INTERESTED CITIZENS.

18 ~~(3)(5)~~ The notification requirement does not apply to
 19 the following types of pesticide applications:

20 (a) applications of pesticides that are confined
 21 entirely to the interior of a building;

22 (b) applications of pesticides that are injected
 23 underground or otherwise injected directly into the target
 24 medium, provided that the application does not involve
 25 spraying of pesticides;

1 (C) APPLICATIONS OF PESTICIDES ON AN EMERGENCY BASIS
2 FOR PURPOSES OF SELF-DEFENSE FROM INSECT ATTACK.

3 †4†(6) Persons and businesses engaged in the retail
4 sale of pesticides for home, yard, garden, and lawn use
5 pursuant to 80-8-212 shall provide blank signs that conform
6 to the specifications established in subsection (2) for use
7 by pesticide applicators. Pesticide retailers may set and
8 collect a reasonable charge for the signs.

9 NEW SECTION. Section 2. Codification instruction.
10 [Section 1] is intended to be codified as an integral part
11 of Title 80, chapter 8, part 1, and the provisions of Title
12 80, chapter 8, part 1, apply to [section 1].

-End-

1 HOUSE BILL NO. 637

2 INTRODUCED BY BECKER, COCCHIARELLA, DOWELL, BLAYLOCK,
3 HOFFMAN, FRANKLIN, MESSMORE, O'KEEFE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTIFICATION
6 OF PESTICIDE APPLICATIONS WITHIN THE BOUNDARIES OF
7 INCORPORATED CITIES AND TOWNS."

8
9 STATEMENT OF INTENT

10 A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL TO
11 PROVIDE DIRECTION TO THE DEPARTMENT OF AGRICULTURE FOR
12 ENFORCEMENT OF THE REQUIREMENTS OF [SECTION 1] RELATING TO
13 NOTIFICATION OF PESTICIDE APPLICATIONS. PURSUANT TO THE
14 PROVISIONS OF 80-8-306(3), IF THE DEPARTMENT RECEIVES A
15 COMPLAINT THAT A PERSON OTHER THAN A LICENSED APPLICATOR HAS
16 FAILED TO COMPLY WITH THE NOTIFICATION REQUIREMENTS OF
17 [SECTION 1] AND THE COMPLAINT CONSTITUTES THE PERSON'S FIRST
18 ALLEGED VIOLATION OF [SECTION 1], THE DEPARTMENT SHALL
19 CONTACT THE PERSON BY TELEPHONE TO DISCUSS THE COMPLAINT AND
20 TO INFORM THE PERSON OF THE REQUIREMENTS OF [SECTION 1]. IF
21 THE DEPARTMENT RECEIVES A SECOND COMPLAINT THAT A PERSON HAS
22 FAILED TO COMPLY WITH [SECTION 1], THE DEPARTMENT SHALL
23 INVESTIGATE THE COMPLAINT CONSISTENT WITH THE DEPARTMENT'S
24 EXISTING PROCEDURES FOR RESPONDING TO ALLEGED VIOLATIONS OF
25 TITLE 80, CHAPTER 8.

1
2 WHEREAS, pesticides that are applied to control insects,
3 rodents, nematodes, fungi, weeds, and other forms of plant
4 and animal life or viruses in and on lawns, gardens, trees,
5 and landscape plants and around buildings may be hazardous
6 to human health, especially if the pesticides are improperly
7 applied; and

8 WHEREAS, persons who reside in or may be passing through
9 an area where pesticides will be applied should be informed
10 of the pesticide application and thereby given the
11 opportunity to avoid unnecessary exposure to pesticides.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Notification of pesticide
15 application. (1) A person applying a pesticide TO CONTROL
16 WEEDS OR INSECTS OR APPLYING A PESTICIDE to a lawn or
17 garden, to trees or landscape plants, or to the exterior of
18 a building located within the boundaries of an incorporated
19 city or town shall provide notification of the pesticide
20 application, except as provided in subsection (3) (5).

21 (2) ~~For a period beginning 48 hours prior to and~~ AT THE
22 TIME OF EACH APPLICATION OF A PESTICIDE AND FOR A PERIOD
23 ending 72 hours after each THE pesticide application, the
24 applicator shall post a sign or signs at conspicuous points
25 of access to property and at reasonable intervals along

1 rights-of-way sufficient to be clearly visible to persons
 2 immediately outside the perimeter of the property or to
 3 persons traveling along or entering the right-of-way. The
 4 sign or signs must:

5 (a) contain clearly legible, waterproof printing that
 6 includes:

7 (i) the word "caution" and the words "pesticide
 8 application";

9 (ii) the common or trade name and the chemical name of
 10 the pesticide to be applied;

11 (iii) the date of the pesticide application; AND

12 (iv) the name of the commercial applicator making the
 13 pesticide application, if applicable; and

14 ~~(v) the telephone number of the applicator; and~~

15 (b) be no less than 80 square inches in size,
 16 fluorescent orange or yellow in color, and constructed of
 17 waterproof material that is designed to remain intact in
 18 outdoor conditions.

19 (3) COMMERCIAL APPLICATORS MAY USE THEIR EXISTING SIGNS
 20 AND SIGN MATERIALS IN LIEU OF THE REQUIREMENTS OF SUBSECTION
 21 (2)(A) AND (2)(B) UNTIL JUNE 30, 1993. THEREAFTER,
 22 COMMERCIAL APPLICATORS' SIGNS MUST COMPLY WITH THE
 23 REQUIREMENTS OF SUBSECTION (2).

24 (4) IN LIEU OF THE NOTIFICATION REQUIRED BY SUBSECTION
 25 (2), A UNIT OF THE STATE, FEDERAL, OR LOCAL GOVERNMENT,

1 INCLUDING A WEED MANAGEMENT DISTRICT, MOSQUITO CONTROL
 2 DISTRICT, OR OTHER PUBLIC ENTITY, THAT APPLIES OR CAUSES TO
 3 BE APPLIED A PESTICIDE OVER ANY PORTION OF THE LAND AREA
 4 WITHIN ITS JURISDICTION THAT LIES WITHIN THE BOUNDARIES OF
 5 AN INCORPORATED CITY OR TOWN MAY PROVIDE PUBLIC NOTICE ON
 6 THE DAY OF THE INTENDED APPLICATION OR WITHIN 72 HOURS
 7 BEFORE THE INTENDED APPLICATION. THE PUBLIC NOTICE MUST
 8 INCLUDE:

9 (A) A GENERAL DESCRIPTION OF THE AREA WHERE THE
 10 PESTICIDE WILL BE APPLIED;

11 (B) THE COMMON OR TRADE NAME AND THE CHEMICAL NAME OF
 12 THE PESTICIDE TO BE APPLIED;

13 (C) THE DATE OF THE PESTICIDE APPLICATION; AND

14 (D) THE NAME OF THE UNIT OF GOVERNMENT OR OTHER PUBLIC
 15 ENTITY RESPONSIBLE FOR THE PESTICIDE APPLICATION AND THE
 16 NAME AND TELEPHONE NUMBER OF A PERSON WHO MAY BE CONTACTED
 17 BY INTERESTED CITIZENS.

18 ~~(3)(5)~~ The notification requirement does not apply to
 19 the following types of pesticide applications:

20 (a) applications of pesticides that are confined
 21 entirely to the interior of a building;

22 (b) applications of pesticides that are injected
 23 underground or otherwise injected directly into the target
 24 medium, provided that the application does not involve
 25 spraying of pesticides;

1 (C) APPLICATIONS OF PESTICIDES ON AN EMERGENCY BASIS
2 FOR PURPOSES OF SELF-DEFENSE FROM INSECT ATTACK.

3 ~~††~~(6) Persons and businesses engaged in the retail
4 sale of pesticides for home, yard, garden, and lawn use
5 pursuant to 80-8-212 shall provide blank signs that conform
6 to the specifications established in subsection (2) for use
7 by pesticide applicators. Pesticide retailers may set and
8 collect a reasonable charge for the signs.

9 NEW SECTION. Section 2. Codification instruction.
10 [Section 1] is intended to be codified as an integral part
11 of Title 80, chapter 8, part 1, and the provisions of Title
12 80, chapter 8, part 1, apply to [section 1].

-End-