

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Rea, on February 17, 1993, at 1 p.m.

ROLL CALL

Members Present:

Sen. Jack "Doc" Rea, Chair (D)
Sen. Francis Koehnke, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Tom Beck (R)
Sen. Betty Bruski-Maus (D)
Sen. Jim Burnett (R)
Sen. Gerry Devlin (R)
Sen. Gary Forrester (D)
Sen. Mike Halligan (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council
David Martin, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 383, SB 393
Executive Action: SB 383, SB 369

HEARING ON SB 393

Opening Statement by Sponsor:

Sen. Fritz, District 28, introduced the School Pesticide Use Reduction Act, SPUR. He said SB 393 asks the head of the Department of Agriculture to prohibit the use of known hazardous pesticides in and around the schools in Montana. This could be accomplished by using preexisting lists produced by the Environmental Protection Agency (EPA), of cancer-causing and toxic pesticides.

Proponents' Testimony:

Bruce Jennings, Faculty Member/Environmental Studies Department of the University of Montana. He said despite a dependence on the EPA for protection from pesticides, SB 393 would provide protection from loopholes that currently exist. SB 393 addressed the absence of adequate studies of the impact of pesticides on children, since most studies are based on adults. In the last 3 to 5 years medical studies indicate that children, especially infants to age 5, are extremely vulnerable to chronic health effects from pesticides, including cancer and the development of reproductive organs. SB 393 would address substances, listed by the EPA, known to cause cancer and reproductive harm and eliminate their use on school grounds. Pesticides may have economic importance which may justify their use in an agricultural setting but not on school grounds. The health and protection of children is important, especially in light of known substitutes for these chemicals. He stressed it was time to act swiftly and ban their use in school settings.

Will Snodgrass, Missoulians for Clean Environment, supported SB 393. He referred to a study conducted by a U.S. Congressional candidate which said rural farm wives and housewives, in particular, are concerned about the effects of these chemicals on their water, their food and especially their children. He referred to a Government Accounting Office Bulletin (Exhibit #1) regarding the known dangers of pesticides and also to other articles in the packet.

Mr. Snodgrass said there are secret pesticide ingredients. Often only the active ingredients are tested when the inert ingredients can also be dangerous. The inert materials can comprise over 90% of the ingredients in a product and are exempt from public disclosure. Once insects are sprayed, they become resistant to the chemicals. The product "Raid" has been changed 21 times in the past 25 years. In contrast, he said there are also Integrated Pest Management programs, IPMs. IPM programs could save school boards thousands of dollars per year. Mr. Snodgrass closed by saying that children had been damaged by past programs that assumed pesticides were safe when actually they were not.

Phill Campbell, Montana Education Association, supported SB 393 saying known health hazards should be removed from school grounds.

Opponents' Testimony:

Pam Langley, parent, former teacher, former school board trustee and Executive Director of Montana Agri Business Association opposed SB 393 (Exhibit #3).

Brad Culver, AMTOP, a professional pesticide applicator, opposed SB 393. He said the key to pesticide management is to recognize the real risk as opposed to the hypothetical risk. Zero risk management is not possible. Pest control can be afforded schools

with minimal risk by performing services after-hours or on weekends when chances of exposure was less. He said properly applied pesticides would yield benefits without causing harm. Concerning real risk versus hypothetical risk, he quoted former Surgeon General C. Everett Coop by saying the risk of being killed by an automobile is greater than being killed by a pesticide. He said properly applied pesticides improve our lives and do not pose a risk to human life.

Questions From Committee Members and Responses:

Sen. Devlin asked Mr. Jennings asked if city parks were sprayed with pesticides as well as school grounds. Mr. Jennings said yes although city parks do not always have the best pest management programs. He said SB 393 limits the issue to schools and school grounds. He cited a park manager in Eugene, Oregon who recently adopted a "no pesticide use" program in city parks which lowered the risks from pesticides and saved money.

Sen. Devlin asked about cleansing materials, used in school districts, which are considered dangerous. Mr. Jennings replied there are a large number of suspected chemicals but SB 393 is limited to a small number of chemicals. Chlorine, for example would not be included. He referred to the EPA list of toxic substances and said of the 1200 inert ingredients tested only 55 would be affected. He said no administrative work would be needed by the state of Montana. Sen. Devlin referred to possible pesticide problems in grocery stores and said the scope of this issue could be extended. Mr. Jennings said SB 393 would be limited to schools and would not effect use in the home or in agricultural settings. He said he was worried about untrained persons applying the pesticides in a school setting, not trained agricultural professionals.

Sen. Beck asked Sen. Fritz for a list of chemicals or pesticides by brand name which would be affected. Sen. Fritz said he could provide that information although not immediately.

Sen. Beck asked if there were programs available to advise school boards on pesticide use and would the school boards already have the authority to regulate pesticide use and questioned if SB 393 was really needed. Sen. Fritz was not aware of an organization that would provide a lists to school boards that SB 393 would entail. Sen. Beck asked if the Superintendent of Schools had been alarmed about this problem and sent information out to the school districts. Sen. Fritz replied "not to my knowledge". Sen. Beck said schools were not forced to use these chemicals or pesticides and suggested making school boards aware of the problem rather than having use dictated by the Department of Agriculture.

Sen. Fritz said one of the proponents had arrived late and asked if she could testify at this time. No one objected.

Kathy Seacat, Legislative Coordinator for the Montana Congress of Parents, Teachers, and Students, supported SB 393. (Exhibit #4)

Sen. Halligan asked Pam Langley why Montana Agri Business was interested in school legislation. She said SB 393 was poorly drafted and could be fixed with amendments. A very important point was when you cancel a product for school use you cancel it's use for everything else including agriculture. She said a voluntary policy would be the best route to follow.

Sen. Halligan asked if there was middle ground in a zero risk approach. Mr. Snodgrass said zero risk was unattainable however the easiest choice would be removal of dangerous chemicals from the school environment. He said the current risks were unacceptable for the children of Montana.

Sen. Halligan asked why a similar California pesticide law was not passed. Mr. Snodgrass said it passed the legislature with the support of parents and schools but was vetoed by the governor under extreme pressure from the pesticide industry.

Sen Aklestad asked about the definition of "schools". Sen. Fritz said "schools" was already defined in law and SB 393 applied only to public schools.

Sen. Aklestad asked if the registration would be pulled for any products that are potentially dangerous to children. Sen. Fritz said yes, for school use only. Sen. Aklestad said if the registration was "pulled", it was "pulled" for everyone that wanted to use this product. Sen. Fritz said was not the intent of this bill. SB 393 was intended to apply only in relation to school use. Sen. Aklestad said if a product is pulled by a Department then it would be pulled for general use. Sen. Fritz said he could provide an amendment which would specify that SB 393 applied only to school use.

Sen. Aklestad said it might be more appropriate to inform school boards of the situation and rather than trying to amend things out of this legislation.

Sen. Beck asked if SB 393 applied to the school year or calendar year. Sen. Fritz said it would be a calendar year since schools are used by children in the summer also.

Sen. Halligan asked Mr. Snodgrass if he would be willing to work on amendments to a voluntary approach. He responded affirmatively.

Sen. Rea asked if the Department of Agriculture wanted to comment on SB 393. Gary Gingery, Department of Agriculture, said the cancellation of a product would remove it from general use in Montana. The Department would suggest prohibiting the use of these substances through rule-making would be very specific to use in school situations. This would allow use in other

situations, such industrial and agriculture sites, yet still limit use in schools.

Closing by Sponsor:

Sen. Fritz said the Department did suggest some amendments (Exhibit #5) and he would leave them with the Committee. He said SB 393 was misrepresented and not the type of bill opponents claimed it was. It was not a zero risk bill nor an environmental bill. SB 393 was a health bill and not anti-pesticide legislation. SB 393 would ask the Department of Agriculture, since it is most knowledge able about the use of pesticides, to provide a checklist of hazardous pesticides and chemicals to school boards so use can be prohibited. He said this would not require a tremendous amount of staff time in the Department and he would be willing to volunteer the time necessary to combine the lists. He said school boards should want the assistance of the Department of Agriculture in limiting and prohibiting the use of hazardous chemicals on school grounds.

HEARING ON SB 383

Opening Statement by Sponsor:

Sen. Grosfield, District 41, said SB 383's main emphasis is on page 6, subsection 3 which was stricken. The water leasing process has been limited to streams designated by the Board of Natural Resources. When the program first started the number of streams on line 15 was 5. Last session, it was raised to 10 and SB 383 would eliminate any limit on the number of streams eligible for leasing. Currently there are two leases in place or will be in place in two weeks. There are 7 streams that have been approved already by the board of Natural Resources for the Department of Fish, Wildlife, and Parks (FWP) to look at for leasing. He said interest for stream leasing is increasing and he would like to remove the cap on possible streams leased. The "leasing" is a temporary study that terminates June 30, 1999. The study looks at transferring agricultural water use to instream flow.

He said SB 383 also addressed some minor issues, page 5, provided that FWP would submit an annual progress report to the Board of Natural Resources, Water Policy Committee, and the Fish and Game Commission by December 1st of each year. The report would specify stream reach designation activity, both on current and future stream reaches. Sections 3 and 4 added authority to use River Restoration Program funds for stream leasing. This may already be covered under the River Restoration Act but would be added protection.

Proponents' Testimony:

Gerhard Knudsen, Assistant Administrator of Water Resources, Department of Natural Resources, DNRC supported SB 383. He said

Sen. Grosfield had explained the provisions of the bill well. All of the initial checks and balances of the original legislation remain in place. Any time an applicant goes through the stream lease process they would be closely scrutinized so that all appropriated rights remain in tact.

Al Elser, Fish Wildlife and Parks, read exhibit #6 supporting SB 383.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

Sen. Burnett asked about existing water rights. Mr. Knudsen, DNRC, responded the lessee would go through the same process as in any other appropriation process. It includes public notification, a review, and if the lease has an adverse effect on existing rights the lease would either have to be conditioned or denied. Under current law, protections to existing users still remain.

Sen. Burnett asked if a person decided to lease some of their water if there must be enough water to service the first rights on the creek. Mr. Knudsen said SB 383 would not interfere with previously established water rights.

Sen. Aklestad asked for an example of when the 10 stream limit has created a problem of entering into a lease. Sen. Grosfield said 4 years ago this was a very controversial issue. The lease process has taken a long time to be put in place because leasing raises a lot of difficult questions. He read page 6, section 2, lines 11-14 and said just because a stream is eligible for leasing does not mean it will be leased. SB 393 would give flexibility to address more streams in this 10 year study. SB 393 would answer what happens when diversionary water use is changed to instream use.

Sen. Aklestad asked if SB 393 would broaden the base number of streams flowing into a river, for example, the Missouri. Sen. Grosfield used Mill Creek in the Paradise Valley which is a trout fishery, for an example. It encompasses 2 water leases and a large irrigation project. The creek dried up one August when cutthroat trout were spawning. The lease would ensure enough water to allow the trout to travel from Mill Creek down into the Yellowstone River during spawning season.

Sen. Koehnke asked for a list of streams currently eligible for stream leases. Sen. Grosfield said he would supply it.

Sen. Beck asked if a 20 stream limit for leasing would be acceptable. Sen. Grosfield said to get 20 streams leased, the Board of Natural resources may have to look at 30 to 40 different

streams. He said the current language on allows 10 "eligible" study streams, not streams that have actual leases.

Sen. Devlin asked if the Department of Natural Resources requested SB 383. Sen. Grosfield said no but he had conferred with them.

Sen. Koehnke asked if SB 383 would allow for unlimited "stream reaches". Sen. Grosfield said yes.

Sen. Aklestad asked about the funding on page 8, lines 12 through 15, and if this allowed for a broadening of funds available for this study. Sen. Grosfield said this refers to the River Restoration Fund in Section 3 and that other funds are available for funding the lease program.

Sen. Halligan asked if the Missouri River, or parts of it, could ever be considered a stream reach. Sen. Grosfield said it could but, the 7 designated so far have all been tributaries related to spawning. Sen. Halligan asked about a controversial river like the Jefferson. He asked if users up and down stream would have to be notified and how a stream lease would affect a junior appropriator. Sen. Grosfield said if you could prove that a stream lease was going to damage your water right, either junior or senior appropriator, then it would be either denied or conditioned. Leases would have to go through the designation process and could not adversely effect users either up or down stream.

Sen. Rea asked about the time length of the leases. Sen. Grosfield said they are good for 10 years and can be renewed once. However in a water conservation project that could be extended from 10 to 20 years.

Sen. Rea asked what would happen in a drought year in relation to payments and water rights. Sen. Grosfield said the lessees take their chances that the water will be there. Most of these concerns should be settled through contractual agreement.

Closing by Sponsor:

Sen. Grosfield said the Montana Water Resources Association supports SB 383. He said stream leasing is complex and involves many issues. He said SB 393 dealt with other issues such as: 1) Length of stream reach, 2) Pg 3 line 15 includes a detailed stream measuring plan. 3) Sub D, page 3, amount that can be diverted form a diversion, and 4) Historical consumption versus amount of water available for lease.

He said all these issues deal with changing agricultural diversion to in- stream use. The purpose of expanding the number of study streams is to address these issues and if determine if stream leasing works. He noted FWP is the only "person" that can

lease water; private individuals, or other groups, as delineated by this controlled, study could not.

EXECUTIVE ACTION ON SB 383

Discussion:

Sen. Beck said the progress of this program should periodically be reported back to the legislature. He suggested amending the number of study streams from 10 to 30 may accomplish that.

Sen. Koehnke said expanding the number of lease study streams to 20 should be sufficient, since only 7 have been done in the past few years.

Sen. Halligan said currently there is an emphasis on giving money to departments to spend wisely and giving state employees the flexibility to perform their jobs. Removing the limit would accomplish this.

Sen. Forester said SB 383 would remove the cap, but the number of streams for consideration is already self-limiting by funding. He asked how much money was available in the River Restoration Fund and other accounts to fund these studies.

Motion/Vote:

Sen. Beck MOVED TO AMEND SB 383, changing the number of study streams from 10 to 20. The motion CARRIED with Senators Halligan and Burnett voting NO.

Motion/Vote:

Sen. Beck MOVED SB 383 DO PASS AS AMENDED. The motion CARRIED with Senators Koehnke and Burnett voting No.

EXECUTIVE ACTION ON SB 369

Motion/Vote:

Sen. Beck MOVE SB 369 DO PASS AS AMENDED. The motion CARRIED with Senator Burnett voting NO.

ADJOURNMENT

Adjournment: Meeting adjourned at 2:26 p.m.


SENATOR REA, Chair


DAVID MARTIN, Secretary

JR/dm

ROLL CALL

SENATE COMMITTEE

AGRICULTURE

DATE 2-17-93

[illegible]

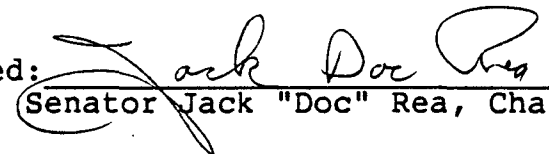
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration Senate Bill No. 369 (first reading copy -- white), respectfully report that Senate Bill No. 369 be amended as follows and as so amended do pass.

Signed:


Senator Jack "Doc" Rea, Chair

That such amendments read:

1. Title, line 7.
Strike: "AND"

2. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 7.
Following: line 1
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval."

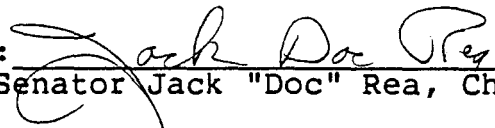
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 17, 1993

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration Senate Bill No. 383 (first reading copy -- white), respectfully report that Senate Bill No. 383 be amended as follows and as so amended do pass.

Signed: 
Senator Jack "Doc" Rea, Chair

That such amendments read:

1. Title, line 5.
Strike: "REMOVING"
Insert: "REVISING"

2. Title, line 6.
Strike: "10"
Insert: "20"

3. Page 6, line 21.
Following: "~~section.~~"

Insert: "(3) The board may designate no more than 20 stream reaches in the state where water leasing pursuant to 85-2-436 may occur. If the department of fish, wildlife, and parks determines that a water lease cannot be reasonably obtained on a designated stream reach, the board may remove the designation from that stream reach and designate another stream reach pursuant to this section."

-END-

February 17, 1993

Exhibit No. 1 is a copy of an article from The San Diego Union, June 13, 1991. The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

The San Diego Union

THURSDAY, June 13, 1991

Health coalition and city schools
are working to demote pesticides

**ACTION
ALERT!**

**Toxic
Schools**

SENATE AGRICULTURE

EXHIBIT NO. 1

DATE 2-17-93

BILL NO. SB 343

How safe is your child's
classroom?

**The
pesticide
problem:**

Is any amount safe?

WHAT THE EXPERTS SAY

SENATE AGRICULTURE

EXHIBIT NO. 2

DATE 2-17-93

BILL NO. SB 393

Pesticide Residues Negligible Health Risk

- *"America's food supply is safe ... If I thought there was any doubt about the safety of the food our children (and all of us) eat, I would be among the first to act, and act loudly ..."*
— Everett Koop, M.D., Sc.D., U.S. Surgeon General, 1981-89
- *"There is no scientific evidence supporting a link between the proper application of pesticides and any ill health effects in humans. Moreover, there is no evidence that the approved use of pesticides contributes in any way to human cancer."*
— Lawrence Garfinkel, Director of Cancer Prevention, American Cancer Society
- *"We believe hysteria over pesticide residues is unwarranted ... In matters of food as well as other aspects of life, risks and benefits must be weighed against one another ... [O]ur conclusion is that, in general, you can feel confident in the safety of what you eat."*
— Mayo Clinic Nutrition Letter, June 1989
- *"At the present time, I am unaware of evidence that suggests that regulated and approved pesticide residues in food contribute to the toll of human cancer in the U.S."*
— Dr. Richard H. Adamson, Director, Division of Cancer Etiology,
National Cancer Institute
- *"Current scientific evidence indicates that any health risk associated with pesticide residues is negligible ... the health risk associated with consuming food products that contain nondetectable or only trace amounts of pesticides is negligible or nonexistent."*
— Institute of Food Technologists, white paper endorsed by 14 scientific societies,
August 1989
- *The U.S. Surgeon General, National Academy of Sciences, Food & Drug Administration and U.S. Department of Agriculture all have declared that pesticide residues within legal tolerances are an insignificant health risk.*

G★M★A

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Manufacturers of Consumer
Branded Food & Grocery Products

GMA 3/3/92

ON THE SAFETY OF AMERICA'S FOOD

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SB 393 -- School Pesticide Use Reduction Act

1. As a parent, former school board trustee and executive director of the Montana Agricultural Business Association, I support the goal of assuring that our children are not unnecessarily exposed to pesticides. However, this bill does not do that.
2. Having served as a trustee for seven years, I don't believe Montana schools are or will ever unnecessarily expose children to pesticides. The Helena District, for example, does not even spray for dandelions unless the building principal requests it. School districts are already strapped for funding given the caps and aren't going to spray products unnecessarily. What they don't need is additional restraints put on them by legislation that further limit them or makes them jump through more hoops.
3. This is pure and simple a zero risk policy. Zero risk is not possible and is impractical as public policy. The cost of any zero risk policy far outweighs the benefit.
4. This legislation is based on legislation (SB926) which California--a state with some of the most stringent environmental laws--rejected last year. No other state has passed legislation like this. If its too stringent for even California, Montana definitely doesn't need it.
5. Questions--
 - a. chlorine in clorox is a potential carcinogen. Is routine use of clorox for disinfecting permitted or not? Not sure if (5) on page 5 takes it out or leaves it in. Or can it be used on desks and countertops and on but not in toilets?
 - b. under "known to cause reproductive harm" on page 4 line 7, what is reproductive toxicity and what do you as legislators expect if you pass this bill? Does any study by even a graduate student that indicates one of these products at a high level might cause reproductive harm mean it is to be blacklisted?
 - c. how do you define school? Is it public schools, private schools, colleges, universities, home schools?
 - d. are "safe, effective and affordable alternatives" readily available to schools? Do we know what the risks are with these alternative?
 - e. does it make sense in law to say that it's OK to expose children to any amount you want of a product that may be a carcinogen if it is used "in controlling contagious human diseases?" Doesn't minimizing exposure make sense then?
6. As an association, we are concerned about the benefit vs cost of spending staff time on this compiling of data when the department already is overloaded with work. A new regulation--worker protection--has just come down from EPA and will take considerable time along with the other issues they already are dealing with. We and farmers fund some 90 per cent of the division's budget through fees.
7. We believe it is poor public policy to enact legislation that:
 - 1) sets up a zero risk policy--life is not risk free and never can be.
 - 2) is not funded--and it will take considerable staff time to compile these lists and

prohibit use. Then how is this to be enforced?? The environmental community already criticizes the department for not being strong enough on enforcement and at the same time is asking to have another law added to be enforced.

3) sets the Department up to be sued. Even though the statement of intent says within available resources, the bill says the "director shall" (page 4, line 17) Environmental groups are continually threatening to sue state government for not enforcing laws. By passing this and asking them to do it "within available resources" you are putting the department in jeopardy of a law suit.

I would urge you to vote no on this bill and instead as a committee ask the Department of Agriculture to develop recommended policy for school districts to follow that encourages integrated pest management and minimizes exposure. It would be far less time-consuming for the department and give far more effective guidance to schools to assure that children are not exposed to pesticides.

Pam Langley



SENATE AGRICULTURE

EXHIBIT NO. 4

DATE 2-17-93

BILL NO. SB 393

Testimony S.B. 393

Senate Agriculture, Livestock & Irrigation Committee

February 18, 1993

Chairman Rea and Members of the Senate Agriculture, Livestock & Irrigation Committee;

I am Kathy Seacat, Legislative Coordinator for the Montana Congress of Parents, Teachers and Students. We are commonly known as the Montana PTSA and with 10,250+ members are the largest child advocacy organization within the state. The National PTA, our parent organization, is the largest child advocacy organization in the nation with 7 million members. The welfare and safety of children and youth is at the heart of all we do and advocate. One of our objects is to secure adequate laws for the care and protection of children and youth in our state and nation.

Today I am here on behalf of the 10,250+ members I represent to address S.B. 393 and to ask you to support this act to adopt the School Pesticide Use Reduction Act.

'Don't Shortchange Montana's Future' is the Montana PTSA's theme for legislative action during the 1993 legislative session. Our children are our future. In a March 1992 Legislative Issue Brief (copy attached), the National PTA discussed federal activity concerning pesticide laws and regulations. "In the aftermath of the Supreme Court decision (June 1991) 'Wisconsin Public Intervenor v. Mortier', the Court ruled unanimously that the Federal Insecticide, Fungicide, Rodenticide Act does not preempt local governments from regulating the use of pesticides. This means that cities, towns, and other local governmental jurisdictions, including school districts, are not prohibited by federal law from controlling the use of pesticides. As a result of this decision, a coalition of over 160 agriculture, manufacturing, pest control, chemical manufacturers, and other related interest groups, has formed to codify, or set in law, an explicit preemption at the state and federal levels, which would forbid local entities from regulating in any way, the use of pesticides."

Our legislative platform states that we will support legislation which will provide the maximum protection against physical hazards for Montana children and youth. This bill will require the department of agriculture to cancel the registration of any school-use pesticide for use within schools or schoolgrounds within 1 year of the date on which an active ingredient of that pesticide becomes known to cause cancer or reproductive harm. This law would allow state government to provide, to the extent possible, protection from pesticides to our children. It would also allow local governments and school districts the flexibility to implement more restrictive regulations if necessary.

Please support passage of S.B. 393. Thank you for your time and attention.

Kathy Seacat, 2711 Tizer Road, Helena, MT 59601 440-6627



LEGISLATIVE DIRECTIVE: ENVIRONMENTAL HEALTH HAZARDS

Issue: Pesticides

A National PTA Legislative Issue Brief

March 1992

National PTA Position

The National PTA supports federal laws and regulations to reduce the levels of toxic residues on agricultural products. (Health and Welfare #5)

Background

Every year, approximately 2.6 billion pounds of pesticides are used in the United States. Aside from applications on agricultural products, pesticides are used in forests, lakes, parks, lawns, sports fields, hospitals, schools, offices and homes.

Many people mistakenly believe that pesticides registered by the Environmental Protection Agency (EPA) are safe. Unfortunately, prior to 1972, manufacturers were not required to provide EPA with health and safety data on their pesticides. As potential risks and health hazards of various chemicals became known, EPA began requiring safety data, and re-registration of old pesticide ingredients. This process has been incredibly slow. Since 1972, of the over 700 active pesticide ingredients contained in the tens of thousands of pesticides that must

be re-registered, EPA has completely re-registered fewer than 18!

Public awareness and concern about the human health and environmental hazards, particularly to children, of pesticide use has increased dramatically. Consider the following:

- * the average child receives four times more exposure than an adult to eight widely used cancer-causing pesticides found in food.
- * more than 50 percent of the lifetime cancer risk from carcinogenic pesticides used on fruit is estimated to occur during a child's preschool years.
- * environmental toxins are more hazardous to children than adults because their bodies are still growing and carcinogens are particularly damaging to their more rapidly growing cells.
- * children are more likely, because of their playing habits, to come into direct contact with pesticide residues.
- * some pesticide chemicals that are used in schools have long-lasting effects. Even if they

are sprayed after school hours, toxic residues may persist in the air and other porous materials found in the classrooms.

Moreover, we do not know the full extent of the potential danger of pesticides in schools, but we do have anecdotal information about pesticides rules violations that have resulted in improper and dangerous application. In many states there are no regulations specifically addressing the use of pesticides in schools, and there is no inspection of schools and pesticides usage, unless there are complaints, usually from parents.

Federal Activity

The Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), which authorizes pesticide control and regulation, still needs to be renewed. Last year, lawmakers were unable to resolve the many controversies that surfaced in the debate.

One of the most contentious issues in the federal pesticide debate revolves around the question of tolerances. In approving pesticides, EPA conducts a risk/benefit analysis, weighing the known risks against the benefits of

use. EPA also determines the maximum allowable residue, known as a tolerance, for food crop uses of pesticides. Current regulations are unclear about how EPA sets tolerances and grant the agency quite a bit of discretion in making these decisions.

In determining risk for pesticides used on raw agricultural commodities, the agency considers a risk of one additional cancer per one million population as insignificant. However, if EPA considers the economic benefits of a pesticide, far greater acceptable risks may be considered.

For processed foods a measurement, known as the Delaney clause, is used. The Delaney clause imposes a health-based, zero-risk standard that prohibits any presence of carcinogens. Critics of both the EPA and Food and Drug Administration (FDA) claim the agencies have circumvented the Delaney clause, and believe the law should be strengthened.

Yet another standard may be considered—a health-based, negligible risk standard—which would not allow consideration of economic benefits, but would allow risk of up to 1 in a million chances of cancer.

A second controversial issue related to pesticide regulation has surfaced in the aftermath of a Supreme Court decision last year. In a case decided last June, *Wisconsin Public Intervenor v. Mortier*, the Court ruled unanimously that FIFRA does not preempt local

governments from regulating the use of pesticides. This means that cities, towns, and other local governmental jurisdictions, including school districts, are not prohibited by federal law from controlling the use of pesticides.

As a result of this decision, a coalition of over 160 agriculture, manufacturing, pest control, chemical manufacturers, and other related interest groups, has formed to codify, or set in law, an explicit preemption at the state and federal levels, which would forbid local entities from regulating, in any way, the use of pesticides.

The National PTA will monitor pending legislative proposals, particularly those that would: improve the enforcement efforts of the EPA, FDA, and Department of Agriculture; accelerate the re-registration process of older pesticides still on the market; and reduce the reliance on chemical pesticides, and increase use of alternatives, if possible, in agriculture and in schools.

Integrated Pest Management (IPM), is one such alternative recommended by the EPA for use in schools. IPM is a comprehensive pest prevention system that reduces reliance on toxic chemicals. The focus of IPM is to find the best, least problematic method of controlling pests at a given site. If used, traditional pesticides are applied only where needed with minimal exposure to anything else. We will monitor the preemption issue to assure that bills do not include provisions that would prevent school districts from

adopting IPM policies.

CH

Amendments
To
SB 393

S. STATE AGRICULTURE
EXHIBIT NO. 5
DATE 2-17-93
BILL NO. SB 393

Page 1, line 5 and line 6

Following: "requiring the"

Strike: "cancellation of registration and prohibiting the registration of"

Insert: "prohibition of the use of"

Page 1, line 7

Following: "pesticides"

Strike: "for use"

Page 1, line 12

Following: "concerning the"

Strike: "cancellation and"

Page 1, line 13

Following: "prohibition of"

Strike: "registration"

Insert: "use"

Page 4, line 15 and 16

Following: "Section 4."

Strike: "Cancellation and prohibition of registration of certain school-use pesticides"

Insert: "Prohibiting certain uses of pesticides in and around schools"

Page 4, line 18

Following: "chapter 8,"

Strike: "cancel the registration"

Insert: "prohibit the use"

Page 4, line 19

Following: "pesticide"

Strike: "for use"

Page 4, line 24

Following: "chapter 8,"

Strike: "refuse to register"

Insert: "prohibit the use of"

Page 5, line 4

Following: "chapter 8"

Strike: "cancel the existing registration"

Insert: :prohibit the use"

Page 5, line 9

Following: "shall"

Strike: "cancel"

Insert: "prohibit"

Page 5, line 10

Following: "the"

Strike: "existing registration and refuse to register"

Insert: "use of"

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SENATE AGRICULTURE
EXHIBIT NO. 6
DATE 2-17-93
BILL NO. SB 383

SB 383
February 17, 1993

Testimony presented by Al Elser, Dept. of Fish, Wildlife & Parks
before the Senate Agricultural Committee

Section 1 subparagraph (3) of the bill amends the annual reporting requirements for the Department of Fish, Wildlife & Parks by requiring a discussion of stream designation activity by the Board of Natural Resources and Conservation and a summary of the past year's leasing activity on already designated streams. The department included this information in our first annual report submitted in November 1992.

Section 2 of the bill simplifies the water leasing study program by deleting the limit of 10 stream reaches where leasing may occur. As the board has approved only seven streams for leasing in the four years since the water leasing study was authorized, removing the limit will have little, if any, influence on the rate at which streams are designated for water leasing. This amendment also removes a current procedure requiring administrative action by the board if a stream designation is withdrawn because a lease cannot be obtained.

Section (3) of the bill authorizes the use of River Restoration Program funds for water leasing. The River Restoration Program is funded by a 50 cent resident and \$1.00 nonresident fee added to the cost of a fishing license. The program expends these funds twice

a year for improvements to streams and rivers by local, state, federal and private entities who apply for project funding.

Projects currently authorized by the program include streambank fencing to improve riparian vegetation, improvement of water quality resulting from land management activities and other sources, and modification of irrigation diversion structures.

Currently, program funds cannot be used for improvement in streamflows. This can only be done through the water leasing program. The water leasing program can improve streamflows by leasing existing water rights and transferring those consumptive rights to instream uses. Under this bill, water leasing would be added to the allowable types of projects which can improve fish habitat.

The department supports the provisions of SB 383.

DATE 2-17-93

SENATE COMMITTEE ON AGRICULTURE

BILLS BEING HEARD TODAY: SB 383 , SB 393

Name	Representing	Bill No.	Check One	
			Support	Oppose
Will SNODGRASS	MCE	393	✓	
Bruce Jennings	University of Montana	393	✓	
AL ELSEN	Fish Wildl. & Parks	383	✓	
Larry PETERMAN	FUP	383	✓	
Brad Culver	AMTCP	SB393		✓
Kathy Seacat	Montana Congress of Parents, Students + Teachers	393	✓	
John Brown	FWRA	SB383	✓	
Donutell	FWRA + BBNA	SB383	✓	
Gerhard M. Madsen	DIIRC	383	x	
Pam Langley	Montana AgriBusiness	SB393		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY