

House BILL NO. 452

INTRODUCED BY Kadas

A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFYING THE PROVISIONS FOR AN ORDINANCE REGULATING THE NOTIFICATION OF PESTICIDE APPLICATION; AND AMENDING SECTION 80-8-120, MCA."

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

Section 1. Section 80-8-120, MCA, is amended to read:

"80-8-120. Local pesticide regulation -- provisions for notification. (1) (a) A unit of local government may adopt an ordinance to regulate pesticide application that may include notification, provided that the ordinance is fully consistent with the authorities provided for in Title 80, chapter 8, and rules adopted under Title 80, chapter 8. The department shall develop a policy for the review and approval of local pesticide ordinances. A unit of local government shall submit a proposed ordinance to the department for verification that the proposed ordinance is consistent with the authorities provided for in Title 80, chapter 8. The ordinance may not be adopted until it has been approved by the department.

(b) A municipality may adopt an ordinance that requires a commercial applicator to provide notification when applying a pesticide, subject to the following provisions:

(i) The applicator shall post signs at the time of pesticide application. The signs may not be removed until 48 hours after the application or until the safe reentry interval on the pesticide label has expired, whichever is later.

(ii) Each sign must:

(A) be at least 4 inches in height and 5 inches in width;

(B) be made of a rigid, weather-resistant material, durable enough to be read for at least 48 hours after posting;

(C) have a white background with red lettering; and

(D) be printed with 18-point type.

(iii) (A) The front of the sign must contain a symbol depicting an adult, child, and pet in a circle with a diagonal line across the circle and the words "warning, pesticide application, keep off" and "customer:

1 please remove after 48 hours".

2 (B) The back of the sign must contain the following information:

3 (I) the name of the applicator;

4 (II) the date and time of application;

5 (III) the trade name, the registry number assigned by the American chemical society, and the
6 chemical names of the active ingredients of the pesticide;

7 (IV) label information prescribing the safe reentry time;

8 (V) the known symptoms and health effects of exposure to the pesticide; and

9 (VI) the telephone number of the applicator, landowner, or property manager who can supply further
10 information about the pesticide.

11 (iv) (A) A sign must be posted at each public access to the treated property, with the front of the
12 sign facing the access.

13 (B) If only a spot pesticide application is made or only a small area is treated, a sign must be posted
14 at the location where the pesticide was applied, with the front of the sign facing the probable path of
15 access to the area.

16 (C) If a driveway, sidewalk, or other vehicle or pedestrian thoroughfare intersects the boundary of
17 the treated area, a sign must be posted so that it is clearly visible from the intersection.

18 (D) The bottom of the sign must be at least 12 inches but not more than 16 inches above the
19 ground.

20 (2) A unit of local government may petition the department in writing to adopt rules to address
21 specific local conditions, as provided in 80-8-105(3)(a). The petition must document:

22 (a) the need for a rule, including the reason that existing rules do not address the particular
23 pesticide application;

24 (b) the need for specific local rules; and

25 (c) that a situation exists that threatens or is likely to threaten public health or environmental
26 quality in the jurisdiction of the unit of local government.

27 (3) Local rules may be administered, enforced, and financed by a unit of local government:

28 (a) through a cooperative agreement with the department, as provided under this section; or

29 (b) after the department adopts rules authorizing a unit of local government to administer, enforce,
30 and finance an ordinance.

1 (4) Within 30 days of receiving the petition, the department shall respond to the unit of local
2 government, stating:

3 (a) whether the petition conforms to the purpose of Title 80, chapter 15, and to the provisions of
4 this section; and

5 (b) the procedures and time period for the promulgation of rules by the department, provided that
6 the petition conforms to the purpose of Title 80, chapter 15, and to the provisions of this section.

7 (5) The department may enter into a cooperative agreement with a unit of local government for the
8 administration and enforcement of local rules adopted under 80-8-105(3)(a).

9 (6) Except as provided in subsection (1), a local government ordinance may not regulate or prohibit
10 the registration, labeling, distribution, use, or sale of pesticides. It is not the intent of this subsection to
11 prevent local responsibilities for zoning, fire codes, or disposal of pesticides pursuant to Title 75, chapter
12 10, part 4.

13 (7) The department shall maintain and, upon request, distribute a register of ordinances adopted
14 by local governing bodies pursuant to subsection (1)."

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