

Household Pesticides

September 24, 1991

Rep. Robert Tardy
P.O. Box 336
Newport, ME 04953

Dear Bob,

In response to your telephone inquiry of last Friday. I am happy to explain our view on the Schultz Company product. In addition I would like to take this opportunity to point out the many difficulties we have faced in trying to implement the 1988 legislation requiring licensing of general use pesticide dealers (GUPD).

I want to start by explaining our understanding of why the legislation was enacted in the first place. We believe the primary purpose was to establish a reporting mechanism for general use sales so volumes of material used by homeowners on their lawns and gardens could be compared with those used for agriculture and forestry. A secondary benefit of licensing general use pesticide dealers was a revenue source to provide grant funds to the Cooperative Extension so they could hire a full time person to upgrade the training manuals people study in preparation for their applicator licensing exams.

Hopefully you agree our assessment of legislative intent is correct. If so, you will not be pleased to hear that the law has failed to meet expectations on either count. The reasons are outlined as follows:

1. Problem in Defining and Identifying Household Pesticides.

The first problem we encountered was in identifying the household products which are exempt from the law. The statutory definition is unfortunately less than clear when it speaks to controlling pests "in and around the family dwelling and associated structures".

The word "around" could lead one to think it included outdoor uses on gardens and lawns which mean "weed and feed" products would be exempt. We felt this would clearly go against the intent of the legislation and we have made it our policy to say household use means use in or on the home. Therefore, all products with outdoor uses would require licensing, and depending on container size, they may require reporting.

2. Dealer Resistance to Reporting.

Our second problem arose when hardware store operators in Lincoln County and elsewhere protested about the extra work of reporting sales of each and every product they sold. Consequently the law was amended in 1989 so they only have to report the products sold in quantities of one quart or 5 pounds or more. While it seemed reasonable at the time, our inspectors estimate that 90% of what most general use dealers are now selling is not required to be reported. This is because they have been able to switch their stocks and only carry less than 32 ounce bottles and 1-4 pound bags or cans.

3. Dealer Resistance to Licensing.

We have had to spend an extraordinary amount of time trying to get the various types of outlets into compliance. Our office staff have spent untold hours on the phone trying to explain the requirements, and our field people have had to revisit outlets several times to either get them licensed or see that they removed the products from their shelves and kept them off. Our Board recently directed the staff to seek enforcement action against over 100 business that had been contacted at least two times previously and were still selling in violation of the law.

4. Revenue Failing to Meet Projections.

Based on the number of outlets holding seed licenses we estimated there would be 1100 dealers paying the \$20.00 fee and producing \$22,000 to go towards the grant to Cooperative Extension. In our first year we licensed 630 outlets but that number dropped to 440 in 1990. The decrease occurred because many stores elected to drop a few products from their inventory so they were only carrying household products. Both the LaVerdiere's and Brooks chain of discount drug stores took this route to avoid the licensing and reporting requirements. During the current year we have gradually pushed the number of licenses up to 489 as we have asked our inspectors to direct some of their attention to GUPD's. With 489 licenses we only generate \$9,960 gross, far below the projected figures.

Although it will be a matter for a future discussion, our costs for the grant to Cooperative Extension have risen to \$31,000 for the current year. Recently a study commission has found that their professional staff is vastly under paid and has recommended a \$5,000 increase for the person working on our manuals. We understand the University will provide the additional funds for the present time but since this is one of the Board of Pesticides' educational efforts we will likely want to pick up the additional expense in the future.

5. Dealer Reports Have Been Incomplete.

Most of the people who have had to become licensed under this law have very little knowledge of pesticides. As a result we have had to do a lot of educating to get them to report in an accurate manner. Hopefully the 1991 reports will be improved so we can tally them and have faith in the numbers. Once again, please bear in mind that these reports may only reflect 10% of the actual sales to homeowners. Therefore, we cannot draw any comparisons to agricultural or forestry use.

I hope this background information will be helpful to you as we now focus on "Schultz-Instant Houseplant and Garden Spray". You will see on the enclosed label that this product is not solely intended for household use. It is also designed for outdoor use in both floral and vegetable gardens. In addition it is also marketed for use in restaurants, greenhouses, offices and schools.

You raised the possibility of creating another exemption for the naturally occurring pesticides. This is your choice but I would point out that the product also contains Piperonyl butoxide which is clearly a synthetic chemical. In addition such a move would presumably include the Bt products which many people are concerned about, especially when used in aerial gypsy moth or hemlock looper spray projects.

I would also like you to be aware that when our inspectors visited the Shop 'n Save stores the Schultz product was not displayed with the aerosols, pet supplies and other household products. Instead it was being offered for sale in their floral section.

The only other product that comes to mind as causing similar problems is Raid Multi-Bug Killer produced by Johnson Wax. The enclosed label is old but it too is now sold with a pump dispenser. The product also contains Piperonyl butoxide, as well as a synthetic pyrethroid, and is marketed for garden pests as well as household uses. You should know that several stores including LaVerdiere's have promptly dropped both the Schultz and Raid products to avoid having to become licensed.

I suspect there are no easy answers to the problems we are facing. Elimination of the exemption for household use pesticides would be the clearest solution for us but we expect it would create a clamor from supermarkets and convenience stores. Such a move would, of course, enhance our revenue situation.

If you and your committee are serious about accurate tallies of products used outdoors by homeowners, you will also have to reconsider the less than a quart and 5 pound exemptions to reporting. We have thought about trying to get the information from the wholesalers but we doubt this would be a reliable way

to proceed since so many are located out of state and we don't have a good handle on them.

In closing, we would welcome an opportunity for our staff to meet with members of the joint Standing Committee on Agriculture in a workshop session to further explore these issues. If you would like to arrange such a meeting or have other questions, please feel free to contact me at your convenience.

Sincerely,

Robert I. Batteese, Jr.
Director
Board of Pesticides Control

RIB/lpc

Enclosures