An Act To Limit the Use of Pesticides on School Grounds

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Representative DAUGHTRY of Brunswick.
Cosponsored by Senator MILLETT of Cumberland and Representatives: BROOKS of Lewiston, DEVIN of Newcastle, FECTEAU of Biddeford, HICKMAN of Winthrop, HUBBELL of Bar Harbor, MONAGHAN of Cape Elizabeth, WELSH of Rockport, Senator: GERZOFSKY of Cumberland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6306 is enacted to read:

§6306. Use of pesticides in schools and on school grounds

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

    A. "Lawn care pesticide" means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, 7 United States Code, Section 135 et seq. for use on lawn, garden and ornamental sites or areas.

    B. "Pesticide" has the same meaning as in 7 United States Code, Section 136(u).

    C. "School" means a public elementary school, secondary school or kindergarten, or a nursery school that is part of a public elementary or secondary school, or a private elementary school, secondary school or kindergarten, or a nursery school that is part of a private elementary or secondary school, approved under section 2901.

    D. "School grounds" means land associated with a school building, including playgrounds, athletic fields, lawns, agricultural and recreational fields, walkways, fence lines and any other outdoor area used by students or staff, including property owned by a municipality or private entity that is regularly used for school activities.

2. Pesticides applications in school buildings. The application of pesticides in school buildings must comply with Title 7, chapter 103, subchapter 2-A, Title 22, chapter 258-A and rules adopted by the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control under those chapters.

3. Allowed uses of pesticides on school grounds. Pesticides, including lawn care pesticides, may be used on school grounds only:

    A. To control, repel or eliminate stinging or biting insects when there is an urgent threat to the health or safety of a student or staff member;

    B. In response to the presence of animals or insects, including mosquitoes and ticks, identified as a public health nuisance by the Department of Health and Human Services, Maine Center for Disease Control and Prevention or a local public health officer; or

    C. On an agricultural field in accordance with the manufacturer's instructions for use of the pesticides for appropriate pest management.

Sec. 2. Adoption of rules minimizing or avoiding pesticides use on school grounds. No later than January 1, 2016, the Commissioner of Education shall adopt rules to implement landscaping design that minimizes or avoids the necessity of the use of pesticides on school grounds for new construction of school facilities.
SUMMARY

This bill restricts the use of pesticides on school grounds. It allows their use only in situations that pose a health threat to a student or staff member, in response to the presence of animals or insects identified as a public health nuisance or on agricultural fields in accordance with the manufacturer's instructions. It requires the Commissioner of Education to adopt rules to implement landscaping design that minimizes or avoids the necessity of the use of pesticides on school grounds for new construction of school facilities.
An Act Regarding Aerial Pesticide Spray Projects

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Representative NOON of Sanford and Senator: DILL of Penobscot, Representatives: BLACK of Wilton, EDGECOMB of Fort Fairfield.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1444, sub-§2, as enacted by PL 1997, c. 215, §1, is amended to read:

2. Aerial spraying. When the infestation causing a public health nuisance may be controlled by the aerial spraying of pesticides, the municipal officers in the affected municipality may conduct aerial spraying subject to rules adopted by the Board of Pesticides Control, pursuant to Title 7, section 610 and Title 22, section 1471-R, subsection 3, paragraph C 1471-M, except that:

A. The municipality rather than the applicator is responsible for compliance with the notification and consent regulations;

B. Landowners who are sent written notification by mail, sent to the landowner's last known address as contained in the municipal assessing records and who fail to respond to the notice within 30 days are deemed to have consented to aerial spraying;

C. A landowner's written consent to spray remains valid unless the municipal officers are notified in writing at least 90 days before spraying is to occur that:

(1) The landowner withdraws consent; or

(2) Ownership of the property has been transferred and the notice contains the name and mailing address of the new owner;

D. Any such notice sent or consent received in calendar year 1997 prior to the effective date of this chapter constitutes adequate notice or consent under the law;

E. Written notice to the landowners must identify the chemicals to be used in the aerial spraying; and

F. Public notice of the date of the aerial spraying, subject to change because of weather conditions, must be given 24 hours prior to the spraying.

Sec. 2. 22 MRSA §1471-C, sub-§5, as amended by PL 2007, c. 245, §1, is further amended to read:

5. Commercial applicator. "Commercial applicator" means any person, except a government pesticide supervisor, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. "Commercial applicator" also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments.

Sec. 3. 22 MRSA §1471-C, sub-§11-A, as enacted by PL 1981, c. 374, §2, is repealed.

Sec. 4. 22 MRSA §1471-C, sub-§§16-C, 23-A and 23-C, as enacted by PL 1983, c. 819, Pt. A, §41, are repealed.
Sec. 5. 22 MRSA §1471-D, sub-$2-A, as enacted by PL 1981, c. 374, §3, is repealed.

Sec. 6. 22 MRSA §1471-D, sub-$2-B, as enacted by PL 1983, c. 819, Pt. A, §43, is repealed.

Sec. 7. 22 MRSA §1471-D, sub-$5, as amended by PL 1983, c. 819, Pt. A, §45, is further amended to read:

5. Issuance. No license or certification may not be issued by the board; unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. In the case of the spotter and monitor, the board shall set minimal proficiency requirements with the understanding that the board may choose to change these standards from time to time. The enforcement personnel of the Board of Pesticides Control shall be certified to meet at least the minimal proficiency requirements required of spotters and monitors. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board deems necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules promulgated adopted pursuant to this chapter.

Sec. 8. 22 MRSA §1471-D, sub-$6, as amended by PL 1997, c. 454, §8, is further amended to read:

6. Renewal. Licenses for commercial applicators, government pesticide supervisors, spotters, monitors, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter IV-4.

Sec. 9. 22 MRSA §1471-M, sub-$1, ¶A, as amended by PL 1981, c. 374, §8, is further amended to read:

A. Establish categories, and where applicable subcategories, of commercial pesticide applicators and government pesticide supervisors depending upon the nature and extent of the pesticide use, the type of pesticide equipment, the degree of knowledge or skill required in their application and such other factors as the board deems relevant, provided that as long as such categories shall be are consistent with, but not limited to, the categories established by the United States Environmental Protection Agency;

Sec. 10. 22 MRSA §1471-M, sub-$1, ¶E, as amended by PL 1983, c. 819, Pt. A, §52, is further amended to read:
E. Establish guidelines and requirements for reporting of information by commercial applicators, pesticide dealers; and spray contracting firms and monitors to the board; and

Sec. 11. 22 MRSA §1471-M, sub-$1, ¶F, as enacted by PL 1981, c. 374, §9, is repealed.

Sec. 12. 22 MRSA §1471-M, sub-$1, ¶G, as enacted by PL 1983, c. 819, Pt. A, §53, is repealed.


Sec. 14. 22 MRSA §§1471-S and 1471-T, as enacted by PL 1983, c. 819, Pt. A, §54, are repealed.

SUMMARY

This bill repeals notification and reporting provisions for forest insect aerial pesticide spray projects. It eliminates provisions related to government pesticide supervisors, spotters and monitors, including the certification, licensing and associated reporting requirements. Other provisions governing notification and reporting requirements for outdoor pesticide applications are contained in the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control rules.
An Act To Protect Children from Exposure to Pesticides

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Representative CHIPMAN of Portland.
Cosponsored by Representatives: BLACK of Wilton, CHAPMAN of Brooksville, DUNPHY of Old Town, HICKMAN of Winthrop, MAREAN of Hollis, McELWEE of Caribou, NOON of Sanford, Senator: SAVIELLO of Franklin.
Be it enacted by the People of the State of Maine as follows:

CONCEPT DRAFT

SUMMARY

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to extend laws and rules regarding pesticides in schools and on school grounds to other areas when children are present.
An Act To Establish a Fund for the Operations and Outreach Activities of the University of Maine Cooperative Extension Animal and Plant Disease and Insect Control Laboratory

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Representative BLACK of Wilton.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 417 is enacted to read:

CHAPTER 417

ANIMAL AND PLANT DISEASE AND INSECT CONTROL FUND

§2431. Fund established

The Animal and Plant Disease and Insect Control Fund, referred to in this chapter as "the fund," is established. The fund is administered by the University of Maine Cooperative Extension and consists of funds received from Title 36, chapter 723, any appropriation or allocation from the Legislature and contributions from private and public sources. The fund, to be accounted within the University of Maine Cooperative Extension, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of a fiscal year must be disbursed to the University of Maine Cooperative Extension.

§2432. Expenditures from fund; distribution

Funds in the fund, after reimbursement for fund administration costs, must be distributed by the University of Maine Cooperative Extension as follows:

1. Pesticide container fee reimbursement. Reimbursement annually to Maine Revenue Services to pay for administrative costs from collection of the pesticide container fee under Title 36, section 4911, subsection 3;

2. Board of Pesticides Control reimbursement. Reimbursement annually to the Board of Pesticides Control, established in Title 5, section 12004-D, subsection 3, to pay for costs under Title 36, section 4911, subsection 5;

3. Pest management education. To the University of Maine Cooperative Extension for outreach and education initiatives on pest management and pesticide safety, including community integrated pest management and medical and veterinary pest management, focusing on health-related issues caused by ticks and mosquitoes, and pesticide application and use, focusing on pollinator health and safety; and

4. Laboratory operations. To the University of Maine Cooperative Extension for costs of its animal and plant disease and insect control laboratory, including testing ticks provided by the public for pathogenic organisms and general laboratory operations involving pesticide management and insect control.

Sec. 2. 36 MRSA c. 723 is enacted to read:

CHAPTER 723

PESTICIDE CONTAINER FEE
§4911. Fee imposed  

1. Imposition. A fee is imposed on the retail sale in this State of containers of consumer packaged pesticides in the amount of 20¢ per container. For purposes of this chapter, "consumer packaged pesticides" means pesticides packaged in suitable quantities for residential application intended for regular use and to be replaced frequently.

2. Exemptions. The following are exempt from subsection 1:

   A. A container of pesticides labeled "only for agricultural, industrial or commercial use";

   B. A container of paint, stain or wood preservative bearing a federal Environmental Protection Agency pesticide product registration number; and

   C. All containers of pesticides sold by a retail store of less than 7,000 square feet of interior and exterior retail space with no more than one other retail store with common ownership in the State.

3. Administration of fee. The fee imposed by this chapter is administered as provided in chapter 7 and Part 3, with the fee imposed pursuant to this chapter to be considered as imposed under Part 3. On a monthly basis the Treasurer of State shall credit all revenue derived from the fee imposed by this chapter to the Animal and Plant Disease and Insect Control Fund established under Title 7, section 2431.

4. Optional participation. A retail store exempt under subsection 2, paragraph C may participate in the collection of the fee under subsection 1 by registering with the Board of Pesticides Control, established in Title 5, section 12004-D, subsection 3.

5. Responsibilities of the Board of Pesticides Control. By January 1, 2015 and every April 1st thereafter, the Board of Pesticides Control, established in Title 5, section 12004-D, subsection 3, shall provide to a retail store required to collect the fee under subsection 1 and a retail store under subsection 4 a product code for every type of pesticide container that may be potentially sold by that store.

SUMMARY

This bill creates the Animal and Plant Disease and Insect Control Fund to pay for pest management and pesticide safety outreach and education and for operating costs relating to pesticide management and insect control of the University of Maine Cooperative Extension's animal and plant disease and insect control laboratory. The Animal and Plant Disease and Insect Control Fund is funded by a 20¢ fee on every container of consumer packaged pesticides, with some exceptions.
An Act To Protect Populations of Bees and Other Pollinators

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Representative McCABE of Skowhegan.
Cosponsored by Representatives: HARLOW of Portland, HICKMAN of Winthrop, SAUCIER of Presque Isle.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 417 is enacted to read:

CHAPTER 417

LABELING AND ADVERTISING OF PLANTS

§2441. Pollinator protection

1. Definition. As used in this section, "insecticide lethal to pollinators" means a product that has a detectable level of systemic insecticide that:

   A. Has a pollinator protection box on the label; or

   B. Has a precautionary statement concerning pollinators, bees or honeybees in the environmental hazards section of the insecticide product label.

"Insecticide lethal to pollinators" includes, but is not limited to, the neonicotinoid class of insecticides that affect the central nervous system of pollinators and may cause pollinator paralysis or death.

2. Prohibition. A person may not label or advertise an annual plant, bedding plant or other plant, plant material or nursery stock as beneficial to pollinators if the annual plant, bedding plant or other plant, plant material or nursery stock has been treated with an insecticide lethal to pollinators.

SUMMARY

This bill prohibits labeling or advertising an annual plant, bedding plant or other plant, plant material or nursery stock as beneficial to pollinators if the plant or material has been treated with an insecticide absorbed by a plant that makes the plant lethal to pollinators.
An Act To Compensate Beekeepers for Hive Losses

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Presented by Representative McCABE of Skowhegan.
Cosponsored by Representatives: DUNPHY of Old Town, HARLOW of Portland, HICKMAN of Winthrop, McELWEE of Caribou.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA Pt. 6-A, c. 519 is enacted to read:

CHAPTER 519

DEFINITIONS

§2691. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have
the following meanings.

1. Apiary. "Apiary" means a place where a collection of one or more hives or
colonies of honeybees or the nuclei of honeybees are kept.

2. Colony. "Colony" means the aggregate of worker honeybees, drones, the queen,
and developing young honeybees living in a hive or other dwelling.

3. Hive. "Hive" means a frame hive, box hive, box, barrel, log gum, skep or any
other receptacle or container, natural or artificial, or any part of one, that is used to house
honeybees.

4. Honeybee. "Honeybee" means any stage of the common honeybee, Apis
mellifera.


Sec. 2. 7 MRSA §2871, as enacted by PL 1985, c. 572, is amended to read:

§2871. Rules

The commissioner shall adopt rules to implement and enforce this Part in accordance
with the Maine Administrative Procedure Act, Title 5, chapter 375. Rules adopted under
this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 7 MRSA c. 533 is enacted to read:

CHAPTER 533

COMPENSATION FOR HONEYBEES KILLED BY PESTICIDES

§2891. Compensation for honeybees killed by pesticides

A person may be compensated for an acute pesticide poisoning resulting in the death
of honeybees or loss of honeybee colonies owned by the person in accordance with this
section.

1. Compensation. If the department determines that honeybee death or loss of a
honeybee colony was caused by an acute pesticide poisoning and the pesticide applicator:
A. Cannot be identified or applied the pesticide product in a manner consistent with
the pesticide product's label, the department may compensate the honeybee owner
from the Honeybee Compensation Fund established in subsection 6 for the fair
market value of the honeybees or honeybee colony; or

B. Can be identified and applied the pesticide product in a manner inconsistent with
the product's label, the department may collect a penalty from the pesticide applicator
sufficient to compensate the honeybee owner for the fair market value of the
honeybees or honeybee colony. The department shall award the penalty collected
from the pesticide applicator under this paragraph to the honeybee owner and may
not otherwise compensate the honeybee owner.

The fair market value under this subsection is determined by the department upon
recommendation by academic experts and honeybee owners. In any fiscal year, the
department may not compensate a honeybee owner for a claim that is less than $100 or
for total claims in excess of $20,000.

2. Claim form. In order to receive compensation under this section, a honeybee
owner must file a claim on forms provided by the department.

3. Denial of compensation. If the department denies compensation claimed by a
honeybee owner under this section, the department shall issue a written decision based
upon the available evidence. The decision must include specification of the facts upon
which the decision is based and the conclusions on the material issues of the claim. The
department shall mail a copy of the decision to the honeybee owner.

4. Final agency action. A decision to deny compensation claimed under this section
is a final agency action for the purposes of judicial review under Title 5, section 11001.

5. Deduction from payment. The department shall reduce a payment made to a
honeybee owner under this section by any compensation received by the honeybee owner
for dead honeybees and honeybee colony losses as proceeds from an insurance policy or
from any other source.

6. Honeybee Compensation Fund. The Honeybee Compensation Fund is
established as a dedicated, nonlapsing fund administered by the Department of
Agriculture, Conservation and Forestry for the purpose of providing compensation to
honeybee owners in accordance with this section. The fund consists of money
appropriated by the Legislature and other funds from any public or private source
received for use for the purpose for which the fund is established.

Sec. 4. Rulemaking. By December 15, 2015, the Department of Agriculture,
Conservation and Forestry shall adopt rules necessary for the implementation of the
Maine Revised Statutes, Title 7, chapter 533.

SUMMARY

This bill provides for compensation to honeybee owners for honeybee death from the
application of pesticides. Under the bill, if honeybee death or loss of a honeybee colony
was caused by an acute pesticide poisoning and the pesticide applicator cannot be
identified or the pesticide applicator applied the pesticide product in a manner consistent with the pesticide product's label, the Department of Agriculture, Conservation and Forestry may compensate the honeybee owner for the fair market value of the honeybees or honeybee colony. If the pesticide applicator can be identified and the applicator applied the pesticide product in a manner inconsistent with the product's label, the department may collect a penalty from the pesticide applicator sufficient to compensate the honeybee owner for the fair market value of the honeybees or honeybee colony and shall award the money to the honeybee owner. The bill provides that fair market value is determined by the department upon recommendation by academic experts and honeybee owners.