

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 5, 2023
Date

Committee on Agriculture & Natural Resources.

After consideration on the merits, the Committee recommends the following:

SB23-192 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, strike line 27.

2 Strike page 4.

3 Page 5, strike lines 1 through 8 and substitute:

4 "(a) PRE-APPLICATION ACTIVITIES INVOLVING MIXING AND
5 LOADING A PESTICIDE;

6 (b) APPLYING THE PESTICIDE, INCLUDING SUPERVISING THE USE OF
7 A PESTICIDE BY A NONCERTIFIED APPLICATOR; AND

8 (c) OTHER PESTICIDE-RELATED ACTIVITIES, INCLUDING:

9 (I) TRANSPORTING OR STORING PESTICIDE CONTAINERS THAT HAVE
10 BEEN OPENED;

11 (II) CLEANING EQUIPMENT; AND

12 (III) DISPOSING OF EXCESS PESTICIDES, SPRAY MIX, EQUIPMENT
13 WASH WATER, PESTICIDE CONTAINERS, AND OTHER PESTICIDE-CONTAINING
14 MATERIALS."

15 Page 5, after line 8 insert:

16 "SECTION 4. In Colorado Revised Statutes, 35-10-112, **amend**
17 (1)(a) and (1)(c)(I)(A); and **add** (1)(c)(III) and (1)(f) as follows:

18 **35-10-112. Notification requirements - registry of**
19 **pesticide-sensitive persons - preemption - rules.** (1) (a) (I) The
20 commissioner shall promulgate rules for the establishment of a registry
21 of pesticide-sensitive persons to be maintained by the department.
22 Pesticide-sensitive persons may apply to be placed on the registry if they
23 can provide proof of medical justification by a physician licensed in

1 Colorado in the form and manner prescribed by the commissioner. To
2 REMAIN ON THE REGISTRY, A PESTICIDE-SENSITIVE PERSON MUST UPDATE
3 the PERSON'S proof of medical justification ~~shall be updated~~ every two
4 years. The DEPARTMENT SHALL UPDATE THE registry ~~shall be updated~~ at
5 least annually, and MAKE the published registry ~~shall be made~~ readily
6 accessible, in a form and manner prescribed by the commissioner, to all
7 commercial, registered limited commercial, and registered public
8 applicators on record with the commissioner.

9 (II) IN APPLYING TO BE PLACED ON THE REGISTRY, A
10 PESTICIDE-SENSITIVE PERSON MAY LIST A PRINCIPAL:

- 11 (A) RESIDENTIAL ADDRESS;
- 12 (B) EMPLOYMENT ADDRESS; AND
- 13 (C) SCHOOL ADDRESS.

14 (c) (I) A commercial, registered limited commercial, or registered
15 public applicator, prior to applying a pesticide in any turf or ornamental
16 category, shall take reasonable actions to give notice of the date and
17 approximate time of any such pesticide application, prior to the
18 application, to any pesticide-sensitive person whose name is on the
19 published registry and:

20 (A) Who ~~resides on~~ HAS LISTED the property to be treated AS THE
21 PERSON'S PRINCIPAL RESIDENTIAL, EMPLOYMENT, OR SCHOOL ADDRESS
22 PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION;

23 (III) IN NOTIFYING A PESTICIDE-SENSITIVE PERSON PURSUANT TO
24 THIS SECTION, A COMMERCIAL, REGISTERED LIMITED COMMERCIAL, OR
25 REGISTERED PUBLIC APPLICATOR MAY PROVIDE THE NOTICE
26 ELECTRONICALLY.

27 (f) (I) ON OR BEFORE JULY 1, 2024, THE DEPARTMENT SHALL
28 DEVELOP A SEARCHABLE DATABASE OF ALL PROPERTIES THAT ABUT, OR
29 ARE ENTIRELY LOCATED WITHIN TWO HUNDRED FIFTY FEET OF, ANY
30 RESIDENTIAL PROPERTY LISTED IN THE REGISTRY OF PESTICIDE-SENSITIVE
31 PERSONS. IF A PROPERTY IS ONLY PARTIALLY LOCATED WITHIN TWO
32 HUNDRED FIFTY FEET OF A RESIDENTIAL PROPERTY LISTED IN THE
33 REGISTRY, AND DOES NOT ABUT THE RESIDENTIAL PROPERTY, THE
34 DEPARTMENT SHALL NOT INCLUDE THE PROPERTY IN THE SEARCHABLE
35 DATABASE.

36 (II) WHEN DEVELOPING THE SEARCHABLE DATABASE PURSUANT
37 TO THIS SUBSECTION (1)(f), THE DEPARTMENT MUST:

38 (A) THROUGH THE COMMISSIONER, ADOPT RULES REQUIRING A
39 COMMERCIAL, REGISTERED LIMITED COMMERCIAL, OR REGISTERED PUBLIC
40 APPLICATOR TO PROVIDE NOTICE TO A PESTICIDE-SENSITIVE PERSON IF THE
41 COMMERCIAL, REGISTERED LIMITED COMMERCIAL, OR REGISTERED PUBLIC
42 APPLICATOR TREATS A PROPERTY THAT IS LISTED IN THE SEARCHABLE
43 DATABASE AS ABUTTING, OR BEING ENTIRELY LOCATED WITHIN TWO

1 HUNDRED FIFTY FEET OF, THE PESTICIDE SENSITIVE PERSON'S LISTED
2 RESIDENTIAL PROPERTY. A COMMERCIAL, REGISTERED LIMITED
3 COMMERCIAL, OR REGISTERED PUBLIC APPLICATOR IS NOT REQUIRED TO
4 PROVIDE NOTICE PURSUANT TO THIS SUBSECTION (1)(f)(II)(A) UNLESS AND
5 UNTIL THE COMMISSIONER ADOPTS RULES PURSUANT TO THIS SUBSECTION
6 (1)(f)(II)(A).

7 (B) PERIODICALLY UPDATE THE SEARCHABLE DATABASE AS
8 NEEDED; AND

9 (C) PROVIDE ACCESS TO THE SEARCHABLE DATABASE TO ALL
10 COMMERCIAL, REGISTERED LIMITED COMMERCIAL, AND REGISTERED
11 PUBLIC APPLICATORS.

12 (III) IT IS AN AFFIRMATIVE DEFENSE TO AN ALLEGATION THAT A
13 COMMERCIAL, REGISTERED LIMITED COMMERCIAL, OR REGISTERED PUBLIC
14 APPLICATOR VIOLATED RULES ADOPTED PURSUANT TO SUBSECTION
15 (1)(f)(II)(A) OF THIS SECTION IF A FAILURE TO NOTIFY A
16 PESTICIDE-SENSITIVE PERSON OF THE TREATMENT OF A PROPERTY THAT
17 ABUTS, OR IS LOCATED ENTIRELY WITHIN TWO HUNDRED FIFTY FEET OF,
18 THE PESTICIDE-SENSITIVE PERSON'S LISTED RESIDENTIAL PROPERTY
19 RESULTED FROM THE FACT THAT THE TREATED PROPERTY WAS NOT LISTED
20 IN THE SEARCHABLE DATABASE AT THE TIME OF THE TREATMENT."

21 Renumber succeeding sections accordingly.

22 Page 8, strike lines 3 through 6 and substitute "**definitions.** (1) A LOCAL
23 GOVERNMENT THAT ADOPTS AN ORDINANCE THAT CONCERNS PESTICIDES,
24 INCLUDING AN ORDINANCE ADOPTED PURSUANT TO SECTION 31-15-707
25 (1)(b), SHALL FILE THE FOLLOWING WITH THE".

26 Page 8, lines 23 and 24, strike "OR RESOLUTION CONCERNING" and
27 substitute "THAT CONCERNS".

28 Page 9, strike lines 14 through 17 and substitute "GOVERNING BODY OF A
29 MUNICIPALITY THAT ADOPTS AN ORDINANCE THAT CONCERNS PESTICIDES,
30 INCLUDING AN ORDINANCE ADOPTED PURSUANT TO SECTION 31-15-707
31 (1)(b), SHALL FILE THE FOLLOWING WITH THE".

32 Strike "OR RESOLUTION" on: **Page 8**, lines 9, 12, and 27; and **Page 9**, lines
33 3, 20, and 22 and 23.

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