

# WEST VIRGINIA CODE: §19-16A-4

## §19-16A-4. Powers and duties of the commissioner.

The commissioner of agriculture has the power and duty to carry out the provisions of this article and is authorized to:

- (a) Delegate to employees of the Department of Agriculture the authority vested in the commissioner by virtue of the provisions of this article;
- (b) Cooperate, receive grants in aid and enter into agreements with any other agency of the state, the United States Department of Agriculture, United States environmental protection agency or any other federal agency or any other state or agency thereof for the purpose of carrying out the provisions of this article;
- (c) Contract for research projects;
- (d) Require that pesticides used in this state are adequately tested and are safe for use under local conditions;
- (e) Require that individuals who sell, store, dispose or apply pesticides are adequately trained and observe appropriate safety practices;
- (f) Promulgate rules pursuant to chapter twenty-nine-a of this code, including, but not limited to, the following:
  - (1) Licensing of businesses that sell, store, recommend for use, mix or apply pesticides;
  - (2) Registration of pesticides for manufacture, distribution, sale, storage or use in this state;
  - (3) Requiring reporting and recordkeeping related to licensing and registration;
  - (4) Establishing training, testing and standards for certification of commercial application, public application, registered technician and private applicator;
  - (5) Revoking, suspending or denying licenses, registration and certification or certificate or permits;
  - (6) Creating advisory committees made up of both pesticide industry representatives and consumers as considered necessary to implement this article;
  - (7) Establishing a fee structure for licenses, registration and certificate to defray the costs of implementing this article;
  - (8) Classifying or subclassifying certificate or certificates to be issued under this article. The

classification may include, but not be limited to, agricultural, forest, ornamental, aquatic, right-of-way, industrial, institutional, structural or health-related pest control;

(9) Restricting or prohibiting the sale or use and disposal of any pesticide, pesticide container or residue which is extremely hazardous;

(10) Coordinating and supporting pesticide monitoring programs;

(11) Developing a program for registration of persons with health sensitivity to pesticide drift;

(12) Establishing guidelines and requirements, as deemed necessary, for licenses, certificate holders and permittees for the identification of pests and their methods of inspection of property to determine the presence of pests;

(13) Establishing procedures for reporting spills, accidents or incidents; and

(14) Such other rules necessary or convenient to carry out the purpose of this article;

(g) Design and conduct an appropriate educational program on the use of pesticides and the necessity for care when applying the same; and

(h) Only after consultation with the state Board of Education, division of human services for child welfare, representatives from the environmental community, and representatives of school and daycare employees, by July 1, 1995, promulgate emergency rules, pursuant to article three, chapter twenty-nine-a of this code, establishing an integrated pest management program. The emergency and legislative rules for the program established in this subsection shall include, but are not limited to, the following:

(1) The use of least hazardous materials;

(2) That pesticides shall only be applied when monitoring indicates that pest infestations are present;

(3) That students and school and daycare employees, except school, Board of Education or daycare employees that are certified applicators, shall not be present during application and provide for appropriate reentry times, except that pesticides may be applied to a localized area of infestation when students or school and daycare employees are present if the infestation causes an imminent threat of bodily harm;

(4) A definition of pesticides; and

(5) A system for prior notification to parents and school and daycare employees.