

HB 2471

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STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



# ENROLLED

*Com. Sub. for*

HOUSE BILL No. 2471

(By Delegate *Mr. Spence, Mr. Chambers, and*  
*DELEGATE MAJORITY*)



Passed MARCH 16 1995

In Effect 90 DAYS FROM Passage



**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**

**H. B. 2471**

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE MANUEL)

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[Passed March 11, 1995; in effect ninety days from passage.]

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AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine-b; to amend and reenact section four, article sixteen-a, chapter nineteen of said code; and to amend article two-b, chapter forty-nine of said code by adding thereto a new section, designated section seventeen, all relating to commissioner of agriculture promulgating rules establishing an integrated pest management program for schools and daycare centers; and requiring county boards of education and daycare centers to implement the program.

*Be it enacted by the Legislature of West Virginia:*

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine-b; that section four, article sixteen-a, chapter nineteen of said code be amended and reenacted; and that article two-b, chapter forty-nine of said code be amended by adding thereto a new section, designated section seventeen, all to read as follows:

**CHAPTER 18. EDUCATION.**

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-9b. Implementation of the Integrated Pest Management Program.**

1       By the fifteenth day of August, one thousand nine  
2 hundred ninety-five, the board shall implement the inte-  
3 grated pest management program promulgated under  
4 rules by the department of agriculture under authority of  
5 section four, article sixteen-a, chapter nineteen of this  
6 code.

**CHAPTER 19. AGRICULTURE.**

**ARTICLE 16A. WEST VIRGINIA PESTICIDE CONTROL ACT.**

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

1       The commissioner of agriculture has the power and  
2 duty to carry out the provisions of this article and is au-  
3 thorized to:

4       (a) Delegate to employees of the department of agri-  
5 culture the authority vested in the commissioner by virtue  
6 of the provisions of this article;

7       (b) Cooperate, receive grants in aid and enter into  
8 agreements with any other agency of the state, the United  
9 States department of agriculture, United States environ-  
10 mental protection agency or any other federal agency or  
11 any other state or agency thereof for the purpose of carry-  
12 ing out the provisions of this article;

13       (c) Contract for research projects;

14       (d) Require that pesticides used in this state are ade-  
15 quately tested and are safe for use under local conditions;

16       (e) Require that individuals who sell, store, dispose or  
17 apply pesticides are adequately trained and observe appro-  
18 priate safety practices;

19       (f) Promulgate rules pursuant to chapter twenty-nine-a

20 of this code, including, but not limited to, the following:

21 (1) Licensing of businesses that sell, store, recommend  
22 for use, mix or apply pesticides;

23 (2) Registration of pesticides for manufacture, distri-  
24 bution, sale, storage or use in this state;

25 (3) Requiring reporting and recordkeeping related to  
26 licensing and registration;

27 (4) Establishing training, testing and standards for  
28 certification of commercial application, public application,  
29 registered technician and private applicator;

30 (5) Revoking, suspending or denying licenses, regis-  
31 tration and certification or certificate or permits;

32 (6) Creating advisory committees made up of both  
33 pesticide industry representatives and consumers as con-  
34 sidered necessary to implement this article;

35 (7) Establishing a fee structure for licenses, registra-  
36 tion and certificate to defray the costs of implementing  
37 this article;

38 (8) Classifying or subclassifying certificate or certifi-  
39 cates to be issued under this article. The classification  
40 may include, but not be limited to, agricultural, forest,  
41 ornamental, aquatic, right-of-way, industrial, institutional,  
42 structural or health-related pest control;

43 (9) Restricting or prohibiting the sale or use and dis-  
44 posal of any pesticide, pesticide container or residue which  
45 is extremely hazardous;

46 (10) Coordinating and supporting pesticide monitor-  
47 ing programs;

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

50 (12) Establishing guidelines and requirements, as  
51 deemed necessary, for licenses, certificate holders and  
52 permittees for the identification of pests and their methods

53 of inspection of property to determine the presence of  
54 pests;

55 (13) Establishing procedures for reporting spills, acci-  
56 dents or incidents; and

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

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

62 (h) Only after consultation with the state board of  
63 education, division of human services for child welfare,  
64 representatives from the environmental community, and  
65 representatives of school and daycare employees, by the  
66 first day of July, one thousand nine hundred ninety-five,  
67 promulgate emergency rules, pursuant to article three,  
68 chapter twenty-nine-a of this code, establishing an inte-  
69 grated pest management program. The emergency and  
70 legislative rules for the program established in this subsec-  
71 tion, shall include, but are not limited to, the following:

72 (1) The use of least hazardous materials;

73 (2) That pesticides shall only be applied when moni-  
74 toring indicates that pest infestations are present;

75 (3) That students and school and daycare employees,  
76 except school, board of education or daycare employees  
77 that are certified applicators, shall not be present during  
78 application and provide for appropriate reentry times,  
79 except that pesticides may be applied to a localized area of  
80 infestation when students or school and daycare employ-  
81 ees are present if the infestation causes an imminent threat  
82 of bodily harm;

83 (4) A definition of pesticides; and

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

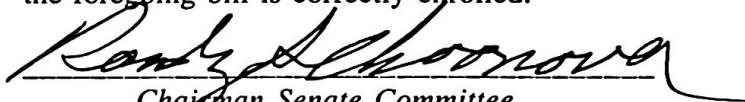
#### **CHAPTER 49. CHILD WELFARE.**

**ARTICLE 2B. DUTIES OF COMMISSIONER OF HUMAN SERVICES FOR CHILD WELFARE.**

**§49-2B-17. Implementation of the integrated pest management program.**

1 By the fifteenth day of August, one thousand nine  
2 hundred ninety-five, the commissioner shall implement  
3 the integrated pest management program promulgated  
4 under rules by the department of agriculture under au-  
5 thority of section four, article sixteen-a, chapter nineteen  
6 of this code.

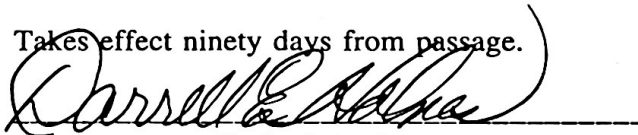
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

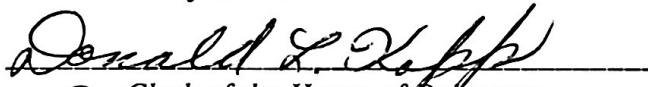
  
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Chairman Senate Committee

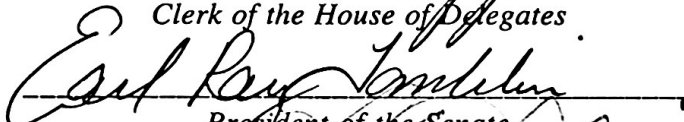
  
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Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
Governor



PRESENTED TO THE

PKL. 2

Date

Date. 3/31/95

Time 2:32 pm