

ENROLLED ACT NO. 80, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

AN ACT relating to pesticides; providing for direct supervision by licensed applicators; providing definitions; providing rulemaking authority for reciprocal agreements; providing penalties; limiting local regulation of pesticides; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-7-376 is created to read:

35-7-376. Direct supervision.

(a) As used in this section, unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available within a reasonable time and distance, even though the certified applicator is not physically present at the time and place the pesticide is applied.

(b) All pesticide applications made for hire shall be under the direct supervision of a certified commercial applicator. All applications of restricted use pesticide shall be made under the direct supervision of a certified applicator. Availability of the certified applicator shall be directly related to the potential hazard of the situation. The certified applicator shall be:

(i) Available by immediate contact through telephone or radio; or

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(ii) Physically present on-site when use of the pesticide poses a potentially serious hazard to people or the environment.

(c) As used in this section:

(i) Reasonable time by the supervising applicator to on-site is deemed to be not more than one (1) hour response time;

(ii) Reasonable distance by the supervising applicator to on-site is deemed to be not more than fifty (50) air miles.

Section 2. W.S. 35-7-354(d)(ii), (iii), by creating a new paragraph (iv) and by creating new subsections (f) through (j), 35-7-359 by creating new subsections (b) through (d), 35-7-362, 35-7-366 by creating a new subsection (d) and 35-7-374(a)(iv)(intro) and by creating a new subsection (c) are amended to read:

35-7-354. Definitions.

(d) "Pesticide" means:

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; ~~and~~

(iii) Any substance or mixture of substances intended to be used as a spray adjuvant; ~~and~~ and

(iv) Any other pesticide product or substance whether general use, restricted use, registered, suspended or cancelled, which by the label or portions thereof clearly show it is used or has been used as a pesticide.

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(f) "Dealer" or "distributor" means any person who imports, consigns, distributes, offers to sell or sells, barter or otherwise supplies pesticides in this state. A dealer or distributor may also be a registrant.

(g) "Director" means the director of the department of agriculture or his authorized agent.

(h) "Label" means a display of written, printed or graphic matter upon or affixed to the immediate container of any pesticide, or a reference within such display to other information.

(j) "Official sample" means any sample of a pesticide, degradate or residue taken by and designated as official by the director.

35-7-359. Classification of licenses.

(b) A commercial applicator shall notify the department of any change of address or change of employment within thirty (30) days of that change.

(c) The director may refuse an application for a reciprocal license for just cause including, but not limited to:

(i) An incomplete or falsified application;

(ii) A prior violation related to pesticides in this state or another state.

(d) The director may immediately suspend a reciprocal license upon discovery of any violation under subsection (c) of this section. The director may reinstate a license

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suspended under this subsection following a hearing pursuant to the Wyoming Administrative Procedure Act.

35-7-362. Reciprocal agreement.

The director may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state substantially in accordance with the provisions of this act but financial security as provided for in W.S. 35-7-360 or proof of liability insurance shall be submitted by nonresident commercial applicators. The department shall, by rule and regulation, establish criteria for reciprocity including, but not limited to, formal agreements with other states, residency, categories and examination. The director is authorized to adopt additional rules and regulations necessary to implement this section.

35-7-366. Penalties.

(d) If the department incurs fees or other expenses to remediate a violation by an applicator, the department may seek restitution from the applicator or the applicator's employer through a court of competent jurisdiction.

35-7-374. Prohibited acts.

(a) It is unlawful for any person to:

(iv) Use any ~~registered~~ pesticide in a manner inconsistent with its labeling which means to use any ~~registered~~ pesticide in a manner not permitted by the labeling, or not authorized by the director under a special local need registration, an experimental use permit or an

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emergency exemption, provided that this paragraph does not include:

(c) Except as otherwise provided by the Wyoming Environmental Pesticide Control Act of 1973, no political subdivision of this state shall adopt or enforce any ordinance, resolution, rule or regulation regarding pesticides storage, sale, distribution, notification of use, or use that is more stringent than the Wyoming Environmental Pesticide Control Act of 1973 or rules promulgated thereunder.

Section 3. This act is effective July 1, 2013.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk