

AN ACT Relating to the Protection of Children's Health

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF [State_Name]

Section 1: This Act shall be referred to as the "Children's Health Protection Act"

Section 2: Purpose

It is the intent of the [enacting entity] to prevent unnecessary exposure of children to toxic pesticides, and provide the healthiest learning environment, playgrounds, and playfields possible. By implementing ecological pest management (EPM) in school structures and on turf grounds, schools will eliminate reliance on toxic pesticides and protect children's health, while at the same time successfully managing weeds and pest problems that arise.

Section 3: Findings

WHEREAS children are more susceptible to hazardous impacts from pesticides than adults, and have "critical windows of vulnerability" whereby even small amounts of pesticide exposure can result in significant health effects;

WHEREAS the U.S. Environmental Protection Agency has recommended the use of a pest management system by school districts, that emphasizes non-chemical approaches to pest control;

WHEREAS ecological land and building management practices that emphasize organic methods of pest prevention and management will eliminate the use of and exposure to pesticides while controlling pest populations;

WHEREAS toxic pesticides must only be used in a designated emergency situation after other options have been attempted and exhausted, and there is an imminent threat to public health.

WHEREAS pesticides such as glyphosate and formulated Roundup pose health risks, such as cancer, that are not adequately addressed under federal pesticide regulation;

WHEREAS, pesticides are harmful to wildlife, including threatened and endangered species, soil microbiology, and natural ecosystems, and toxic runoff from chemical fertilizers and pesticides pollute streams, lakes, and drinking water sources;

WHEREAS the people of [State_Name] embrace a precautionary approach to the use of toxic pesticides in order to adequately protect people and the environment from pesticides' harmful effects.

WHEREAS the people of [State_Name] have a fundamental right to know about the use of pesticides where children learn and play;

Section 4: Definitions

- A. "Antimicrobial pesticide" means a material that is used for the control of microbial pests, including, but not limited to, viruses, bacteria, algae, and protozoa, and is intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms. Antimicrobial pesticides shall not include any fungicide or pesticide used on plants, turf or other vegetation or for ornamental uses.

- B. "Ecological Pest Management (EPM)" means a pest management program that:
- (1) uses comprehensive methods, including site or pest inspections, pest population monitoring, exclusion practices, elimination of habitat and pest-conducive conditions, and the setting of pest threshold levels;
 - (2) after pest threshold levels are met, utilizes cultural practices, sanitation, mechanical management, structural repairs, habitat manipulation, biological controls, and other non-chemical methods to prevent and manage pests to threshold levels;
 - (3) uses permitted indoor pesticides and permitted outdoor pesticides only after nontoxic options have been exhausted; and
 - (4) regularly evaluates the effectiveness of current pest prevention and management approaches and considers additional preventive measures to minimize any chemical use.
- C. "Ecological pest management coordinator" means an individual who is designated by a school district to carry out implementation of the ecological pest management plan of a school district.
- D. "Local School Board" means the policy-setting body of a school district;
- E. "Permitted outdoor pesticide" means:
- (1) A pesticide classified by the United States Environmental Protection Agency as an exempt material pursuant to 40 C.F.R. 152.25, as amended; and
 - (2) A pesticide including no active ingredients other than those published on the National List at 7 C.F.R. 205.601 and 602, as annotated and amended.
- F. "Permitted indoor pesticide" means:
- (1) Antimicrobial pesticides;
 - (2) A pesticide classified by the U.S. Environmental Protection Agency as an exempt material pursuant to 40 C.F.R. 152.25, as amended;
 - (3) A pesticide including no active ingredients other than those published in the National List at 7 C.F.R. 205.601, as annotated and amended;
 - (4) Insecticidal baits containing no synthetic ingredients placed in tamper resistant bait stations or in areas inaccessible to children and the general public (e.g., boric acid);
 - (5) Ready-to-use dust, powder or gel formulations of insecticide containing no synthetic ingredients and applied in areas inaccessible to children and the general public;
- G. "Natural fertilizer" means fertilizers that contain nutrients naturally derived solely from the remains or a byproduct of organisms, or from minerals. The term includes cottonseed meal, soybean meal, fish emulsion, compost, and composted manure, but does not include any fertilizer containing biosolids or synthetic ingredients, or substances that are reacted with acids or produced in a petrochemical process.
- H. "Pesticide" means any substance or mixture of substances registered as a pesticide by the U.S. Environmental Protection Agency, intended for preventing, destroying, repelling, or mitigating any pest; this includes but is not limited to herbicides, insecticides, fungicides, plant growth regulators, defoliant, and desiccants. A pesticide does not include cleaning products, other than those that contain pesticidal agents.
- I. "Public Health Emergency" means an unpredictable outbreak of poisonous, or stinging or biting insects that have been determined by a public health agency to be a disease vector or is known to be a health threat.
- J. "Public Health Official" means an individual who is employed by a public health department or serve a public health capacity for a public agency.

- K. "Synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except that such term shall not apply to substances created by naturally occurring biological processes.
- L. "School" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;
- M. "School Administrator" means a person licensed to administer in a school district and includes school principals, district administrators and charter school head administrators;
- N. "School Building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;
- O. "School District" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;
- P. "School Employee" includes licensed and nonlicensed employees of a school district;
- Q. "School Grounds" means the area outside of the school buildings controlled, managed, leased, or owned by the school or school district, including a lawn, playground, sports field, and any other property or facility controlled, managed, leased, or owned by a school.

Section 5: Nontoxic School Pest Management; In General.

- A. No later than one year after the passage of this act, the [State_Name Education Department] in coordination with other state agencies and experts, shall develop sample ecological pest management plans which may be modified by schools and school districts.
- B. No later than two years after the passage of this act, each school within a school district shall establish and implement an ecological pest management plan that, at a minimum, applies to school buildings and school grounds.
- C. At the beginning of each school year, each school within a school district shall include a notice of the school ecological pest management plan of the school district in school calendars or through other forms of notification as indicated in H(3) of this section.
- D. Each school district shall designate an ecological pest management coordinator who is responsible for carrying out the ecological pest management plan in schools. The ecological pest management coordinator shall have the following duties:
 - (1) oversee the implementation of the ecological pest management plan at each school within a school district;
 - (2) act as a contact for inquiries about the ecological pest management plan;
 - (3) maintain and make available to parents, guardians, school staff, and any person upon request material safety data sheets, labels, and fact sheets or other official information related to the pesticides, including permitted pesticides as defined in Sections 3 E and F that may be used in the school district;
 - (4) be informed of Federal and State chemical health and safety information and contact information;
 - (5) maintain scheduling of all pest management for schools in the school district;
 - (6) maintain contact with Federal and State pest management system experts;

- (7) obtain periodic updates and training from State pest management experts;
 - (8) oversee approval of emergency pesticide applications in coordination with the public health official responsible for determinations of emergencies.; and
 - (9) coordinate the maintenance of all pesticide use data for each pesticide used, including permitted and emergency pesticides, at each school within the school district, ensuring maintenance and public accessibility of such records for at least three years after the date on which the pesticide is first applied.
- E. No pesticide other than a permitted outdoor pesticide shall be used on school grounds, except in as provided by paragraph G of this section, or in the case of a public health emergency, which is to be determined based on a finding by a public health official appointed by the local school board. The finding must include a determination that the use of nontoxic practices and permitted materials will not provide adequate public health protection.
- F. No pesticide other than a permitted indoor pesticide shall be applied to school buildings, except in as provided by paragraph G of this section, or in the case of a public health emergency, which is to be determined based on a finding by a public health official appointed by the local school board. The finding must include a determination that the use of nontoxic practices and permitted materials will not provide adequate protection.
- G. The following pesticidal materials and activities are exempt from the provisions of this section:
- (1) Commercial agriculture;
 - (2) Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
 - (3) Disinfectants, germicides, bactericides, miticides, and virucides, when used in the manner specified by the manufacturer;
 - (4) Swimming pool supplies when used in the manner specified by the manufacturer;
 - (5) General use paints, stains and sealants when used in the manner specified by the manufacturer;
 - (6) Rat and rodent control supplies when used in the bait boxes that prevent secondary poisoning;
- H. If it is determined that an emergency pesticide application is necessary, and a pesticide other than a permitted outdoor or indoor pesticide is to be used:
- (1) The pesticide application shall only be performed by a certified pesticide applicator.
 - (2) The pesticide application shall not occur in an area occupied or used at the time of application or during the 24-hour period beginning at the end of the application.
 - (3) The school shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school notice of the application of a pesticide in response to a public health emergency, provided:
 - (a) Notification to those using the school facility shall be provided at least 48 hours in advance of application, except that if such notice is not practicable, broad notice through media and social media shall be given to the public within 24 hours after an emergency pesticide application, transmitted through a written notice sent home with the student and provided to staff members, or a notice delivered electronically through email.; and
 - (b) A notice shall be posted at the time of pesticide application;
 - (c) Written and electronic notice shall occur during the school year, and during holidays

and the summer

months, if the school is in use, with notice provided to all staff members and the parents and guardians of the students that are using the school in an authorized manner.

(4) Notification of an emergency pesticide application shall include the following:

- (a) The name of the active ingredient of the pesticide being applied.
- (b) The brand name of the product and copy of the product label.
- (c) The target pest.
- (d) The location of the application.
- (e) The date of application.
- (f) The name and telephone number of the Ecological Pest Management Coordinator of the school district, and a statement that the IPM coordinator is available to parents, guardians, and staff members for information and comment.

(5) The school where the emergency pesticide application occurred shall work with the Ecological Pest Management Coordinator to modify the integrated pest management plan to minimize future applications of pesticides.

- I. Schools may only use natural fertilizers. Fertilizers containing synthetic ingredients are prohibited.
- J. The school shall maintain on site for a period of not less than three years, and shall be made available to the public upon request, a record of a pesticides used, including permitted pesticides and those used in an emergency.
- K. The school district shall annually review its ecological pest management program to evaluate how well its pest prevention and management objectives are being met, and to identify areas where improvement is needed. The report will be provided to school board members and made available to the public upon request. Summary information and notice of the annual report's availability will be provided along with the notice of the school district's School Pest Management Plan under (C) of this section. The school district shall prepare a report containing the following information:
 - (1) quantities of each pesticide, including allowed pesticides, applied during the year;
 - (2) target pest for each pesticide used;
 - (3) cost of the school district's ecological pest management program for the year in review;
 - (4) number of emergency pesticide applications made during the year;
 - (5) non-chemical pest prevention and control measures used; and,
 - (6) pest management plan for the coming year.
- L. Each school district shall provide an opportunity, at least once each year, at a regularly scheduled meeting, for the Ecological Pest Management Coordinator designated by the school district to receive and address public comments regarding school ecological pest management plans. The notice of the meeting shall be included in the universal notification required at the start of each school year under C of this section. "

Section 6: Effective Date. This act shall take effect 24 months after its passage.