

**Proposed Bill: Alaska Children’s Health Protection Act**

An Act that protects children, school staff, and licensed child care facility staff from unnecessary exposure to toxic pesticides through use of least toxic pest management; regulates the purchase and storage of pesticides by schools and licensed child care facilities; requires pesticide use recordkeeping and public availability of records; and requires public notification when pesticides are used.

**Be it Enacted By the People of the State of Alaska:**

**Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS AND INTENT. (a) The People of the State of Alaska find that

(1) in 1992, the National Parent Teacher Association passed a resolution calling for the reduced use of pesticides in schools and calling on policymakers to consider all possible alternatives before using pesticides;

(2) The National Education Association and numerous other public interest organizations have announced support for reducing pesticide use in schools;

(3) more than 6,000 pesticides are registered for use in the State with little or no screening for environmental or health effects;

(4) approximately 9,000,000 children in the United States under the age of 18 have asthma, the most common chronic illness in children and the most common cause of school absences; this disease can be triggered by pesticide exposure;

(5) the United States National Academy of Sciences estimates that 25% of learning and behavioral disabilities in children are due to exposure to neurotoxic pesticides;

(6) pesticide exposure:

(A) has been linked with cancer, birth defects, asthma, endocrine disruption, genetic mutations, acute poisoning, decreased sperm counts, impaired neurological development in fetuses and infants, lymphoma and leukemia, as well as other human health effects;

(B) is particularly dangerous to school age children, as their bodies and brains are still developing and thus are more susceptible to the hazardous impacts from pesticides than adults.

(b) It is the intent of this Act to

(1) prevent unnecessary exposure of children and staff to chemical pesticides;

(2) provide the healthiest learning environment, playgrounds, and playfields as possible;

(3) promote the use of non-chemical pest prevention and control measures first, with pesticides used only as a last resort; and

(4) provide notification to the parents of children in the rare cases that pesticides are used at schools and child care facilities.

**Sec. 2.** Title 4 of the Alaska Statutes is amended by adding a new chapter to read:

**Chapter 19. Pesticide Management in Schools**

**Sec. 3.** AS 14.19 is amended by adding a new section to read:

**Sec. 14.19.010. Pest Management Procedures.** (a) Public and private schools shall implement pest prevention and management strategies that:

- (1) are least hazardous to human health;
- (2) are least damaging to the school and natural environment;
- (3) are least disruptive of natural controls;
- (4) minimize negative impacts to non-target organisms; and
- (5) are most likely to produce long-term reductions in pest control

requirements.

(b) Governing bodies and private schools shall monitor to determine if and when pest prevention and management is needed to prevent property damage or health problems.

(c) When pest prevention and management is needed, educational, physical, mechanical, and biological measures of prevention and control shall be used, unless the pest presents a health and safety hazard, then pesticides may be used as a last resort.

(d) When a governing body or private school determines that the use of a pesticide for pest prevention and management is necessary, the smallest amount of the least toxic formulation with the least potential for human exposure shall be used.

(e) Any pesticide application shall be performed by pesticide applicators licensed and certified by the State of Alaska, unless a temporary license waiver is obtained from the Department of Environmental Conservation in accordance with AS 46.03.320(b) and implementing regulations.

**Sec. 4.** AS 14.19 is amended by adding a new section to read:

**Sec. 14.19.020. Regulation of School Pesticide Use.** (a) Chemicals permitted for use as a last resort at a public or private school shall not be acutely or chronically toxic or linked with health effects such as cancer, hormone disruption, reproductive damage, immune system damage, or nervous system toxicity.

(b) Pesticides shall not be used for only aesthetic or nuisance purposes.

(c) Except as provided in (d) of this section, United States Environmental Protection Agency Toxicity Categories I and II pesticides, as defined in 40 C.F.R. 156.62 and the hazard communication standard as determined by the United States Department of Labor, Occupational Safety and Health Administration, in 29 C.F.R. 1910.1200, shall not be used in school buildings or on school grounds.

(d) The commissioner of the Department of Environmental Conservation may, upon written request by a governing body or private school, allow application of Toxicity Category I and II pesticides if the commissioner determines that an emergency exists, and that the proposed use is a last resort after less toxic remedies have been tried without satisfactory result.

**Sec. 5.** AS 14.19 is amended by adding a new section to read:

**Sec. 14.19.030. Regulation of Pesticide Purchase or Storage.** (a) Pesticides purchased by a school district or a private school shall be stored in a secure and locked location away from children's access and accessible only by authorized individuals.

(b) A pesticide application contractor shall not store any products or equipment within school property, spill any chemical products, leave any equipment or pesticide

containers unsupervised on school property, or dispose of pesticide containers or equipment in dumpsters or trash containers on school property.

**Sec. 6.** AS 14.19 is amended by adding a new section to read;

**Sec. 14.19.040. Pesticide Use Recordkeeping.** (a) A written or electronic record of all pesticide applications made at a school shall be maintained by governing bodies and private schools for at least five years, and shall be made available to the public upon request.

(b) The record of pesticide application shall be completed on the day of the application and shall include, but not be limited to:

- (1) the purpose for the application(s);
- (2) the date and time of the application(s);
- (3) the application area;
- (4) the brand name and ingredients (active ingredients) of the pesticide product and the name of the pesticide manufacturer and the federal EPA registration number
- (5) quantity of the pesticide used and method of application;
- (6) least toxic and non-chemical alternative methods or treatments available to accomplish the desired objectives and the reasons why the application of the pesticide was chosen; and
- (7) a copy of the label and Material Safety Data Sheet.

(c) School districts shall prepare an annual report containing the following information, which shall be provided to school boards and the department and made available to the public upon request:

- (1) the quantity of each pesticide applied during the year;
- (2) the target pest for each pesticide used;
- (3) the cost of the school district's pest management program for the year in review;
- (4) the number of emergency pesticide applications made during the year;
- (5) non-chemical pest prevention and control measures used; and
- (6) a pest management plan for the coming year.

**Sec. 7.** 14.19 is amended by adding a new section to read:

**Sec. 14.19.050. Notification.** (a) When pesticides are used at public and private schools, the individual school shall notify students, parents, guardians, and staff of the pesticide applications by posting notices as required, and by sending notices home with students. Notices shall be sent home with students at least 48 hours prior to the pesticide application.

(b) Notification signs shall be posted

- (1) not less than 48 hours, but not more than 120 hours, before the use of the pesticide and shall remain in place for at least 72 hours after the use of the pesticide has been completed; and
- (2) conspicuously at an outdoor treatment site and in highly visible locations along the perimeter of the application area, and each entry point into an indoor facility in or around which the pesticide is being used.

(c) The notification sign shall be printed on 8 ½ x 11 inch paper and must provide the following information:

- (1) a header containing the EPA signal word from the pesticide label alongside the words "Pesticide Application;"
- (2) the name and active ingredient(s) of the pesticide, the target pest;
- (3) the address of the premises where the pesticide is being applied;
- (4) the name, telephone number, and pesticide business registration number or certified applicator number of the pesticide applicator, and the name and telephone number of the responsible party from whom the pesticide label and material safety data sheet may be obtained;
- (5) the specific date of each pesticide application, and alternative dates in case of inclement weather;
- (6) the name and United States Environmental Protection Agency registration number of each pesticide being applied;
- (7) the rate, mode, and concentration of application;
- (8) the telephone numbers of pesticide information lines and Internet websites to obtain information about the pesticide being applied; and
- (9) the following prominent precautionary statement: "CAUTION: Pesticides may be harmful to your health, and you are advised to minimize exposure to them. Pregnant women, infants, children, and individuals with respiratory or heart disease, chemical sensitivities, or weakened immune systems may be particularly susceptible to adverse health effects due to pesticide exposure."

(d) The pesticide application contractor shall provide the governing body or private school with label instructions and Material Safety Data Sheets (MSDS) for each pesticide to be applied. The label instructions and MSDS shall be public information and provided to a member of the public upon request.

**Sec. 8.** AS 14.60.010 is amended by adding new paragraphs to read:

- (9) "pest" means a living organism or infectious, transmissible, or contagious disease of plants, that is, or is liable to be, dangerous or detrimental to humans or the environment, or that can create a nuisance;
- (10) "pesticide" has the meaning given in AS 46.03.900(19).
- (11) "private school" has the meaning given in AS 14.45.200(1).

**Sec. 9.** AS 47.35 is amended by adding a new section to read:

**Sec. 47.35.051. Pest Management Procedures.** (a) Licensed child care facilities shall implement pest prevention and management strategies that:

- (1) are least hazardous to human health;
- (2) are least damaging to the childcare facility and natural environment;
- (3) are least disruptive of natural controls;
- (4) minimize negative impacts to non-target organisms; and
- (5) are most likely to produce long-term reductions in pest control requirements.

(b) Licensed child care facilities shall monitor to determine if and when pest prevention and management is needed to prevent property damage or health problems.

(c) When pest prevention and management is needed, educational, physical, mechanical, and biological measures of prevention and control shall be used, unless the pest presents a health and safety hazard, then pesticides may be used as a last resort.

(d) When a licensed child care facility determines that the use of a pesticide for pest prevention and management is necessary, the smallest amount of the least toxic formulation with the least potential for human exposure shall be used.

(e) Any pesticide application shall be performed by pesticide applicators licensed and certified by the State of Alaska, unless a temporary license waiver is obtained from the Department of Environmental Conservation in accordance with AS 46.03.320(b) and implementing regulations.

**Sec. 10.** AS 47.35 is amended by adding a new section to read:

**Sec. 47.35.052. Regulation of Pesticide Use.** (a) Chemicals permitted for use at a licensed child care facility shall not be acutely or chronically toxic or linked with health effects such as cancer, hormone disruption, reproductive damage, immune system damage, or nervous system toxicity.

(b) Pesticides shall not be used for only aesthetic or nuisance purposes.

(c) Except as provided in (d) of this section, United States Environmental Protection Agency Toxicity Categories I and II pesticides, as defined in 40 C.F.R. 156.62 and the hazard communication standard as determined by the United States Department of Labor, Occupational Safety and Health Administration, in 29 C.F.R. 1910.1200, shall not be used in licensed child care facilities or on licensed child care facility grounds.

(d) The commissioner of the Department of Environmental Conservation may, upon written request by a licensed child care facility or the department, allow application of Toxicity Category I and II pesticides if the commissioner determines that an emergency exists, and that the proposed use is a last resort after less toxic remedies have been tried without satisfactory result.

**Sec. 11.** AS 47.35 is amended by adding a new section to read:

**Sec. 47.35.053. Regulation of Pesticide Purchase or Storage.** (a) Pesticides purchased by a licensed child care facility shall be stored in a secure and locked location away from children's access and accessible only by authorized individuals.

(b) A pesticide application contractor shall not store any products or equipment within child care facility property, spill any chemical products, leave any equipment or pesticide containers unsupervised on child care facility property, or dispose of pesticide containers or equipment in dumpsters or trash containers on child care facility property.

**Sec. 12.** AS 47.35 is amended by adding a new section to read:

**Sec. 47.35.054. Pesticide Use Recordkeeping.** (a) A written or electronic record of all pesticide applications made at a licensed child care facility shall be submitted to the department, maintained by the department for at least five years, and shall be made available to the public upon request.

(b) The record of pesticide application shall be completed on the day of the application and shall include, but not be limited to:

- (1) the purpose for the application(s);
- (2) the date and time of the application(s);

- (3) the application area;
- (4) the brand name and ingredients (active ingredients) of the pesticide product and the name of the pesticide manufacturer and the federal EPA registration number;
- (5) quantity of the pesticide used and method of application;
- (6) least toxic and non-chemical alternative methods or treatments available to accomplish the desired objectives and the reasons why the application of the pesticide was chosen; and
- (7) a copy of the label and Material Safety Data Sheet.

**Sec. 13.** 47.35 is amended by adding a new section to read:

**Sec. 47.35.071. Notification.** (a) When pesticides are used at licensed child care facilities, the licensed child care facility shall notify parents, guardians, and staff of the pesticide applications by posting notices as required, and by sending notices home with children. Notices shall be sent home with children at least 48 hours prior to the pesticide application.

(b) Notification signs shall be posted

(1) not less than 48 hours, but not more than 120 hours, before the use of the pesticide and shall remain in place for at least 72 hours after the use of the pesticide has been completed; and

(2) conspicuously at an outdoor treatment site and in highly visible locations along the perimeter of the application area, and each entry point into an indoor facility in or around which the pesticide is being used.

(c) The notification sign shall be printed on 8 ½ x 11 inch paper and must provide the following information:

(1) a header containing the EPA signal word from the pesticide label alongside the words "Pesticide Application;"

(2) the name and active ingredient(s) of the pesticide, the target pest;

(3) the address of the premises where the pesticide is being applied;

(4) the name, telephone number, and pesticide business registration number or certified applicator number of the pesticide applicator, and the name and telephone number of the responsible party from whom the pesticide label and material safety data sheet may be obtained;

(5) the specific date of each pesticide application, and alternative dates in case of inclement weather;

(6) the name and United States Environmental Protection Agency registration number of each pesticide being applied;

(7) the rate, mode, and concentration of application;

(8) the telephone numbers of pesticide information lines and Internet websites to obtain information about the pesticide being applied; and

(9) the following prominent precautionary statement: "CAUTION: Pesticides may be harmful to your health, and you are advised to minimize exposure to them. Pregnant women, infants, children, and individuals with respiratory or heart disease, chemical sensitivities, or weakened immune systems may be particularly susceptible to adverse health effects due to pesticide exposure."

(d) The pesticide application contractor shall provide the licensed child care facility with label instructions and Material Safety Data Sheets (MSDS) for each pesticide to be applied. The label instructions and MSDS shall be public information and provided to a member of the public upon request.

**Sec. 14.** AS 47.35.900 is amended by adding new paragraphs to read:

(26) "pest" means a living organism or infectious, transmissible, or contagious disease of plants, that is, or is liable to be, dangerous or detrimental to humans or the environment, or that can create a nuisance;

(27) "pesticide" has the meaning given in AS 46.03.900(19).

**Sec. 15. Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

**Sec. 16.** This Act takes effect 120 days after enacted by a vote of the People of the State of Alaska.