

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 861
3 entitled “An act relating to regulation of treated article pesticides” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 6 V.S.A. § 1101 is amended to read:

8 § 1101. DEFINITIONS

9 As used in this chapter unless the context clearly requires otherwise:

10 * * *

11 (4) “Economic poison” shall have the meaning stated in subdivision
12 911(5) of this title.

13 (5) “Pest” means any insect, rodent, nematode, fungus, weed, or any
14 other form of terrestrial or aquatic plant or animal life or virus, bacteria, or
15 other micro-organisms, which the ~~secretary~~ Secretary declares as being
16 injurious to health or environment. Pest shall not mean any viruses, bacteria,
17 or other micro-organisms on or in living ~~man~~ humans or other living animals.

18 (6) “Pesticide” for the purposes of this chapter shall be used
19 interchangeably with “economic ~~poison~~” poison.”

20 (7) “Treated article” means a pesticide or class of pesticides exempt
21 under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide,
22 Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

1 Sec. 2. 6 V.S.A. § 1102 is amended to read:

2 § 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

3 (a) The Pesticide Advisory Council is established and attached to the
4 Agency of Agriculture, Food and Markets. Members of the Council, except
5 those public members appointed by the Governor, shall be qualified
6 individuals who, by experience and training, are knowledgeable in one or more
7 areas associated with pest control. The Secretary, or Commissioner as the case
8 may be, shall represent each Department or Agency on the Council:

9 (1) The Department of Fish and Wildlife.

10 (2) The Department of Environmental Conservation.

11 (3) The Agency of Agriculture, Food and Markets.

12 (4) The Department of Forests, Parks and Recreation.

13 (5) The Department of Health.

14 (6) The Agency of Transportation.

15 (7) One physician from the College of Medicine of the University of
16 Vermont nominated by its dean.

17 (8) One representative in the area of entomology, plant pathology, or
18 weed control from the University of Vermont Extension Service to be named
19 by the director.

20 (9) One representative in the area of pesticide research from the
21 Vermont Agricultural Experiment Station named by the dean of the College of
22 Agriculture and Life Sciences of the University of Vermont.

1 (5) To recommend studies necessary for the performance of its functions
2 as established under this section.

3 (6) To recommend targets with respect to the State goal of achieving an
4 overall reduction in the use of pesticides consistent with sound pest or
5 vegetative management practices, and to issue an annual report to the General
6 Assembly, detailing the State’s progress in reaching those targets and attaining
7 that goal. The targets should be designed to enable evaluation of multiple
8 measures of pesticide usage, use patterns, and associated risks. Targets should
9 take into consideration at a minimum the following:

10 (A) reducing the amount of acreage where pesticides are used;

11 (B) reducing the risks associated with the use of pesticides;

12 (C) increasing the acreage managed by means of integrated pest
13 management techniques;

14 (D) decreasing, within each level of comparable risk, the quantity of
15 pesticides applied per acre; and

16 (E) making recommendations regarding the implementation of other
17 management practices that result in decreased pesticide use.

18 (7) To recommend to the Secretary policies, proposed rules, or
19 legislation for the regulation of the use of a treated article when the Council
20 determines that use of the treated article will have a hazardous or long-term
21 deleterious effect on the environment in Vermont, presents a likely risk to

1 human health, or is dangerous. In developing recommendations under this
2 subdivision, the Council shall review:

3 (A) alternatives available to a user of a treated article; and

4 (B) the potential effects on the environment or risks to human health
5 from use of the available alternatives to a treated article.

6 (e) The Council shall meet semiannually, once in the fall and once in the
7 spring. Meetings at other times may be called by the Governor, by the Chair,
8 or by a member of the Council. Attendance at Council meetings shall not be
9 required of the Commissioners of Departments within the Agency of Natural
10 Resources, or their designees; however, at least one of these Commissioners,
11 or the Commissioner's designee, shall attend each meeting of the Council.

12 ~~Council~~ The Council's proceedings shall be open to the public and its
13 deliberations shall be recorded and made available to the public, along with its
14 work product.

15 Sec. 3. 6 V.S.A. § 1105a is added to read:

16 § 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST

17 MANAGEMENT PRACTICES

18 (a) The Secretary of Agriculture, Food and Markets, upon the
19 recommendation of the Pesticide Advisory Council, may adopt by rule:

20 (1) best management practices, standards, procedures, and requirements
21 relating to the sale, use, storage, or disposal of treated articles the use of which
22 the Pesticide Advisory Council has determined will have a hazardous or

1 long-term deleterious effect on the environment, presents a likely risk to
2 human health, or is dangerous;

3 (2) requirements for the response to or corrective actions for exigent
4 circumstances or contamination from a treated article that presents a threat to
5 human health or the environment;

6 (3) requirements by the Secretary for the examination or inspection of
7 treated articles the use of which the Pesticide Advisory Council has determined
8 will have a hazardous or long-term deleterious effect on the environment,
9 presents a likely risk to human health, or is dangerous;

10 (4) requirements for persons selling treated articles to keep or make
11 available to the Secretary records of sale of treated articles the use of which the
12 Pesticide Advisory Council has determined will have a hazardous or long-term
13 deleterious effect on the environment, presents a likely risk to human health, or
14 is dangerous; or

15 (5) requirements for reporting of incidents resulting from accidental
16 contamination from or misuse of treated articles the use of which the Pesticide
17 Advisory Council has determined will have a hazardous or long-term
18 deleterious effect on the environment, presents a likely risk to human health, or
19 is dangerous.

20 (b) At least 30 days prior to prefiling a rule authorized under subsection (a)
21 of this section with the Interagency Committee on Administrative Rules under
22 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate

1 Committee on Agriculture and the House Committee on Agriculture and Forest
2 Products for review.

3 Sec. 4. 6 V.S.A. § 1104(3) is amended to read:

4 (3) Adopt standards, procedures, and requirements relating to the
5 display, sale, use, application, treatment, storage, or disposal of economic
6 poisons or their waste products and limit the conditions under which the same
7 may be sold, used, treated, stored, or disposed of. The use of pesticides which
8 the ~~secretary~~ Secretary finds to have a hazardous or ~~long-term~~ long-term
9 deleterious effect on the environment shall be restricted, and permits shall be
10 required for their use in accordance with regulations adopted by the ~~secretary~~
11 Secretary. Specific uses of certain pesticides deemed to ~~be unwise or present a~~
12 likely risk to human health or be dangerous shall be restricted by regulation or
13 by ordering the deletion of certain uses for registered pesticides from the label
14 on pesticide products to be marketed in the ~~state~~ State. Approved methods for
15 the safe display, storage, and shipping of poisonous pesticides shall be
16 prescribed and enforced. Procedures for the disposal of pesticides which are
17 illegal, obsolete, surplus, or in damaged containers shall be adopted and
18 enforced with the cooperation of the ~~agency of natural resources~~ Agency of
19 Natural Resources;

20 Sec. 5. CONSISTENCY OF TREATED ARTICLE REQUIREMENTS

21 The Secretary of Agriculture, Food and Markets shall not establish
22 requirements, best management practices, standards, or procedures under

1 6 V.S.A. § 1105a for a treated article, class of treated articles, or release from a
2 treated article when, and to the extent that, the sale, use, storage, disposal,
3 inspection, recordkeeping, reporting, or corrective action of a treated article,
4 class of treated article, or release from a treated article is regulated by another
5 agency, department, board, or instrumentality of the State under rule, order,
6 practice, procedure, or exercise of statutory authority.

7 Sec. 6. EFFECTIVE DATE

8 The act shall take effect on July 1, 2016.

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11 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE