

1 S.180

2 Introduced by Senator Ashe

3 Referred to Committee on Agriculture

4 Date: January 7, 2020

5 Subject: Agriculture; pesticides; chlorpyrifos

6 Statement of purpose of bill as introduced: This bill proposes to phase-in a
7 ban on the use and application of the pesticide chlorpyrifos. Beginning on
8 July 1, 2020, the bill would prohibit the aerial application of chlorpyrifos.
9 Beginning on January 1, 2021, the bill would prohibit application of
10 chlorpyrifos except for application to the trunks of apple trees. Beginning on
11 January 1, 2022, all uses and applications of chlorpyrifos would be prohibited.

12 ~~An act relating to prohibiting the use and application of the pesticide~~
13 ~~chlorpyrifos.~~

An act relating to the use and application of pesticides

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 ~~Sec. 1. 6 V.S.A. § 1114 is added to read:~~

16 § 1114. USE OF CHLORPYRIFOS

17 (a) Definition. As used in this section, “chlorpyrifos” means a pesticide
18 with the chemical name O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl)-
19 phosphorothioate and the Chemical Abstract Service registry number
20 ~~2921-88-2.~~

1 ~~(1) Prohibition. The use and application of chlorpyrifos is prohibited in~~
2 ~~the State as follows:~~

3 ~~(1) Beginning on July 1, 2020, no person shall aerially apply~~
4 ~~chlorpyrifos in the State.~~

5 ~~(2) Beginning on January 1, 2021, no person shall apply chlorpyrifos in~~
6 ~~the State except for application to the trunks of apple trees.~~

7 ~~(3) Beginning on January 1, 2022, no person shall use or apply~~
8 ~~chlorpyrifos in the State.~~

9 Sec. 2. EFFECTIVE DATE

10 ~~This act shall take effect on July 1, 2020.~~

Sec. 1. 6 V.S.A. § 1114 is added to read:

§ 1114. USE OF CHLORPYRIFOS

(a) Definition. As used in this section, “chlorpyrifos” means a pesticide with the chemical name O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl)-phosphorothioate.

(b) Prohibition. No person shall use or apply chlorpyrifos in the State.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

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

(1) “Secretary” shall ~~have~~ has the same meaning stated as in subdivision 911(4) of this title.

** * **

(4) “Economic poison” shall ~~have~~ has the same meaning stated as in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganisms, which the Secretary declares as being injurious to

health or environment. Pest shall not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) "Pesticide" for the purposes of this chapter shall be used interchangeably with "economic poison."

* * *

(8) "Integrated pest management" means an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Under integrated pest management, pesticides are used only after monitoring indicates they are needed according to established guidelines, and pesticide treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.

Sec. 3. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

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

~~(1) The Department of Fish and Wildlife.~~

~~(2) The Department Commissioner of Environmental Conservation.~~ or designee;

~~(3)(2) The Agency Secretary of Agriculture, Food and Markets.~~ or designee;

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

~~(5)(3) The Department Commissioner of Health.~~ or a designee with expertise in public health;

~~(6) The Agency of Transportation.~~

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

~~(8)(4)~~ One representative in the area of with expertise in agronomy, entomology, or plant pathology, or weed control from the University of Vermont Extension to be named by the Director, appointed by the Secretary.

~~(9)(5)~~ One representative in the area of pesticide research from the Vermont Agricultural Experiment Station named by the Dean of the College of Agriculture and Life Sciences of the University of Vermont.

~~(10)(6)~~ Two members appointed by the Governor. In choosing these members, the Governor shall consider people who have knowledge and qualities that could be useful in pursuing the goals and functions of the Council. One of these members shall have practical experience in commercial agricultural production and shall be appointed in consultation with the Secretary. One of these members shall have practical knowledge or experience in environmental or public health issues in Vermont.

(7) One representative with expertise in farming in Vermont to be appointed by the Secretary.

(8) One representative with expertise in the area of environmental consequences of pesticide and other contaminants in the environment named by the Dean of the Rubenstein School of Environment and Natural Resources.

(9) One representative with expertise in Integrated Pest Management (IPM) and managing land while minimizing or avoiding the use of pesticides in Vermont to be appointed by the Secretary.

~~(b) Each State or university member of the Council shall serve until his or her resignation or until his or her successor is appointed or otherwise designated in accordance with this chapter. Public members member of the Pesticide Advisory Council, except those members serving ex officio, shall be appointed for terms of three years, except initially, appointments shall be made such that one member shall serve for a term of one year and one for a term of two years.~~

~~(c) The Chair of the Council shall be designated by the Governor and serve as his or her personal representative and The Council shall select a chair from among its members, and the chair shall coordinate activities on the Council.~~

~~(d) The functions of the Council are shall:~~

~~(1) To review Review insect, plant disease, weed, nematode, rodent, noxious wildlife, and other pest control programs within the State and to assess the effect of such programs on human health and comfort, natural resources, water, wildlife, and food and fiber production and, where necessary, make recommendations for greater safety and efficiency.~~

(2) ~~To serve~~ Serve as the advisory group to State agencies having responsibilities for the use of pesticides as well as to other State agencies and departments.

(3) ~~To advise~~ Advise the Executive Branch of State government with respect to legislation concerning the use of various pest control measures.

(4) ~~To suggest~~ Recommend programs, policies, and legislation for wise and effective pesticide use that lead to an overall reduction in the use of pesticides in Vermont consistent with sound pest or vegetative management practices.

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

(6) ~~To recommend~~ Recommend targets to the General Assembly with respect to the State statutory goal of achieving an overall reduction in the use of pesticides ~~consistent with sound pest or vegetative management practices and to measure the State's progress in reaching those targets and attaining that goal.~~ The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

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

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

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

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

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

(7) ~~To recommend~~ Recommend to the Secretary and the General Assembly policies, proposed rules, or legislation for the regulation of the use of a treated article when the Council determines that use of the treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous. In developing recommendations under this subdivision, the Council shall review:

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

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

(e) The Council shall meet semiannually, once in the fall and once in the spring at least quarterly. Meetings at other times may be called by the Governor, by the Chair, or by a member of the Council. Attendance at Council meetings shall not be required of the commissioners of departments within the Agency of Natural Resources or their designees; however, at least one of these commissioners or the commissioner's designee shall attend each meeting of the Council. The Council's proceedings shall be open to the public and its deliberations shall be recorded and made available to the public, along with its work product.

(f) On or before February 1, 2021 and annually thereafter, the Council shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report regarding the specific actions and activities accomplished by the Council in the previous calendar year to reduce risk to humans and the environment from pesticide use and to reduce the amount of pesticides used within each category of pesticide use in Vermont. The report also shall include all recommendations by the Council to the General Assembly under subdivisions (d)(6) and (7) of this section regarding targets for achieving an overall reduction in the use of pesticides. All recommendations to the General Assembly under subdivisions (d)(6) and (7) of this section shall be publicly posted, noticed for public comment, and posted to and regularly updated on the website of the Agency of Agriculture, Food and Markets.

Sec. 4. TRANSITIONAL PROVISION; REVISION OF MEMBERSHIP OF PESTICIDE ADVISORY COUNCIL

(a) The terms of the members of the Pesticide Advisory Council established under 6 V.S.A. § 1102 in effect immediately prior to the effective date of Sec. 3 of this act shall expire on July 1, 2020.

(b) On or before July 1, 2020, the appointing authorities of the Pesticide Advisory Council set forth in 6 V.S.A. § 1102 as amended in Sec. 3 of this act shall appoint the members of the Pesticide Advisory Council as amended in Sec. 3 of this act, and the terms of those new members shall begin on July 1, 2020.

Sec. 5. HERBICIDE USE ON FIELD CORN; BEST PRACTICES

On or before May 1, 2021, the Secretary of Agriculture, Food and Markets shall develop by procedure best practices in addition to the Vermont Regulations for the Control of Pesticides that farmers using herbicides on field corn should implement to reduce the amount of herbicides used on corn fields and to avoid or mitigate potential harms to public health or the environment.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (chlorpyrifos prohibition) and 4 (transitional provision; Pesticide Advisory Council) shall take effect on passage.

(b) All other sections shall take effect July 1, 2020.