

# HOUSE . . . . . No. 781

By Representative Kaufman of Lexington and Senator Montigny, joint petition of Jay R. Kaufman and others relative to regulating the use of dangerous pesticides in the Commonwealth. Environment, Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

### PETITION OF:

Jay R. Kaufman	Scott P. Brown
Mark C. Montigny	Steven J. D'Amico
Edward M. Augustus, Jr.	Tom Sannicandro
Susan C. Fargo	William N. Brownsberger
Gale D. Candaras	Alice K. Wolf
Barbara A. L'Italien	Cynthia S. Creem
Benjamin Swan	Joyce A. Spiliotis
Cleon H. Turner	Michael E. Festa
Cory Atkins	Patricia D. Jehlen
David Paul Linsky	Peter V. Kocot
Denise Provost	Robert S. Creedon, Jr.
Douglas W. Petersen	Robert A. Havern
James B. Eldridge	Richard T. Moore
J. James Marzilli, Jr.	Mary E. Grant
John W. Scibak	Carl M. Sciortino, Jr.
Kay Khan	Angelo J. Puppolo, Jr.
Matthew C. Patrick	Jennifer M. Callahan
Ruth B. Balsler	

In the Year Two Thousand and Seven.

AN ACT TO PREVENT THE USE OF THE MOST DANGEROUS PESTICIDES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by striking out, in line 80, the words “food and  
3 agriculture” and inserting in place thereof the following words:—  
4 agricultural resources.

1 SECTION 2. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by inserting after “Fungi” the following defini-  
3 tions:—  
4 “Health care facility,” a health care facility as defined in Section  
5 nine C of Chapter one hundred and twelve.

6 “Hospital,” any hospital licensed under Section fifty-one of  
7 Chapter one hundred and eleven, the teaching hospital of the Univer-  
8 sity of Massachusetts Medical School and any psychiatric facility  
9 licensed under Section nineteen of Chapter nineteen.

1 SECTION 3. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by striking out the definition of “Integrated pest  
3 management” and inserting in place thereof the following defini-  
4 tion:—

5 “Integrated pest management”, a comprehensive strategy of pest  
6 control whose major objective is to achieve desired levels of pest  
7 control in a way that minimizes public health risks and environ-  
8 mental damage by combining multiple pest control measures to  
9 reduce the need for reliance on chemical pesticides; more specifi-  
10 cally, a combination of pest controls which addresses conditions that  
11 support pests and may include, but is not limited to, the use of moni-  
12 toring techniques to determine immediate and ongoing need for pest  
13 control, increased sanitation, physical barrier methods, crop rotation,  
14 training, the use of natural pest enemies and a judicious use of  
15 lowest risk pesticides when necessary.

1 SECTION 4. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by inserting after “Pesticide” the following defini-  
3 tion:—

4 “Pesticide advisory subcommittee,” the subcommittee created by  
5 Section 3B of this chapter.

1 SECTION 5. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by inserting after “Plant regulator” the following  
3 definition:—

4 “Priority Toxic Pesticide,” any of the substances contained in the  
5 list promulgated by the Pesticide Advisory Subcommittee pursuant  
6 to Section 3B of this chapter.

1 SECTION 6. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by inserting after “Protect health and the environ-  
3 ment” the following definitions:—

4 “Public building,” any building owned, occupied, or used by any  
5 public entity including but not limited to the Commonwealth and

6 any county, city, town, authority, transit or school district, or any  
7 agency or instrumentality thereof.  
8 “Public housing,” any federal, state or municipally subsidized  
9 housing or housing project.

1 SECTION 7. Section 2 of Chapter 132B of the General Laws is  
2 hereby amended by inserting after “Registrant” the following defini-  
3 tion:—  
4 “Retailer,” any private business that sells a product in the Com-  
5 monwealth.

1 SECTION 8. Chapter 132B of the General Laws is hereby  
2 amended by adding after Section 3A the following section:—  
3 Section 3B. Pesticide advisory subcommittee. A subcommittee of  
4 the pesticide board shall be the pesticide advisory subcommittee and  
5 shall create a list of priority toxic pesticides. Said list shall be com-  
6 prised of pesticides that are recognized as carcinogenic, mutagenic,  
7 or toxic to development or reproduction when used as directed. This  
8 list will be subject to no fewer than two public hearings in different  
9 regions of the Commonwealth and an open public comment period  
10 of not less than 90 days. The pesticide advisory subcommittee shall  
11 update this list every two years or as health-related information  
12 becomes available regarding the toxicity of pesticides not on the list.  
13 The subcommittee shall be appointed by the commissioner of the  
14 department and shall consist of seven members:— one representa-  
15 tive from the Pesticide Board who shall chair the subcommittee, one  
16 representative from the environmental community, one representa-  
17 tive from an occupational health group, one representative from the  
18 public health community, one representative who is a physician or  
19 registered nurse, one licensed pesticide applicator, and one represen-  
20 tative from the University of Massachusetts at Amherst Extension  
21 Integrated Pest Management Program.

1 SECTION 9. Within three months of the effective date of this  
2 section the pesticide advisory subcommittee shall be appointed by  
3 the commissioner of the department of agricultural resources pur-  
4 suant to Section 3B of Chapter 132B.

1 SECTION 10. Section 6A of Chapter 132B of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 inserting after the word “license”, in line 7, the following words:—

4 No individual certified or licensed as a pesticide applicator shall  
5 use any priority toxic pesticide as designated by the pesticide advi-  
6 sory subcommittee pursuant to Section 3B of this chapter. This  
7 restriction shall not apply to certified or licensed pesticide applica-  
8 tors when applying priority toxic pesticides in commercial agricul-  
9 tural settings.

10 No state, municipality, school, daycare center, hospital, health  
11 care facility, or public housing buildings or grounds, shall use or  
12 permit to be used any priority toxic pesticide.

1 SECTION 11. Section 7A of Chapter 132B of the General Laws,  
2 is hereby amended by striking out subsection (a) and inserting in  
3 place thereof the following subsection:—

4 Section 7A. (a) The department shall establish and implement a  
5 pesticide use reporting system for use by government agencies,  
6 researchers, policy makers and the public to ensure the public health  
7 and safety and to protect the environment of the Commonwealth. In  
8 establishing and implementing the system, said department shall  
9 design, develop and implement the system in order to collect, eval-  
10 uate, summarize, retain and report information on the use of pesti-  
11 cides in each major category of use in the Commonwealth, including  
12 agriculture, forestry, industrial, commercial and homeowner uses.  
13 Said department shall, at least one time each year, collect the best  
14 data practicable from each major category of pesticide use. This  
15 shall include, but not be limited to, sales data from pesticide retailers  
16 in the Commonwealth and application data from each individual  
17 licensed or certified pesticide applicator, including the location of  
18 the application of the pesticide. Data shall be collected in a manner  
19 that will allow such data to be used for public health purposes,  
20 including, but not limited to, epidemiological studies, and for envi-  
21 ronmental protection purposes. Such data shall be collected in a  
22 manner which minimizes reporting costs. Said department shall  
23 begin operation of the required statewide data reporting program on  
24 or before January 31, 2009.

1 SECTION 12. Section 7A of Chapter 132B of the General Laws,  
2 is hereby amended by striking out, in line 40, “2001”, and inserting  
3 in place thereof the following:— “2009.”

1 SECTION 13. Section 7A of Chapter 132B of the General Laws,  
2 is hereby amended by striking out, in line 45, “2003”, and inserting  
3 in place thereof the following:— “2009.”

1 SECTION 14. Subsection (c) Section 7A of Chapter 132B of the  
2 General Laws, is hereby amended by adding the following sen-  
3 tence:—

4 Said department shall develop a consistent format for data  
5 reporting for each major category or use and post said information  
6 on the web site.

1 SECTION 15. Chapter 132B of the General Laws is hereby  
2 amended by striking out Section 14 and inserting in place thereof the  
3 following section:—

4 Section 14. Any person who knowingly violates any provision of  
5 Section 6 of this chapter shall be punished by a fine of not less than  
6 one thousand dollars and not more than twenty-five thousand dol-  
7 lars, or by imprisonment for not more than one year, or both such  
8 fine and imprisonment, for each such violation, or shall be subject to  
9 a civil penalty not less than ten thousand dollars and not to exceed  
10 twenty-five thousand dollars for each such violation, which may be  
11 assessed in an action brought on behalf of the Commonwealth in any  
12 court of competent jurisdiction. Each day of violation shall consti-  
13 tute a separate offense.

14 Any person who violates any provision of Sections 6A to 6K,  
15 inclusive, or Section 7A, who violates any regulation adopted under  
16 the provisions of this chapter, (a) shall be punished by a fine of not  
17 more than one thousand dollars, or imprisonment for not more than  
18 six months, or both such fine and imprisonment, for the second and  
19 each subsequent offense knowingly committed, or (b), shall be sub-  
20 ject to a civil penalty not to exceed ten thousand dollars for any  
21 offense, which may be assessed in an action brought on behalf of the  
22 Commonwealth in any court of competent jurisdiction. Each day of  
23 violation shall constitute a separate offense.

24 Any person who violates any order issued under the provisions of  
25 this chapter, (a) shall be punished by a fine of not less than one thou-  
26 sand dollars nor more than twenty-five thousand dollars or imprison-  
27 ment for not more than two years, or both such fine and  
28 imprisonment, for each violation knowingly committed, or (b) shall  
29 be subject to a civil penalty not less than one thousand dollars and  
30 not to exceed twenty-five thousand dollars for each violation, which  
31 may be assessed in an action brought on behalf of the Common-  
32 wealth in any court of competent jurisdiction. Each day of violation  
33 shall constitute a separate offense.

34 The superior court shall have jurisdiction to enjoin violations of,  
35 or grant such relief as it deems necessary or appropriate to secure  
36 compliance with, any provision of this chapter or the terms of an  
37 order, license, certification, registration, permit or regulation issued  
38 or adopted thereunder.