House Engrossed Senate Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 311

SENATE BILL 1350

AN ACT

AMENDING SECTION 32-2307, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; MAKING AN APPROPRIATION; RELATING TO STRUCTURAL PEST CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2307, Arizona Revised Statutes, is amended to read:

32-2307. Notification of pesticide applications to schools and child care facilities; exemptions; definitions

A. A business licensee or licensed applicator shall notify a school OR A CHILD CARE FACILITY at least seventy-two hours in advance of any pesticide application in order to permit the school to comply with section 15-152 AND THE CHILD CARE FACILITY TO COMPLY WITH SECTION 36-898. The seventy-two hour advance notice shall include the date and time the application is to occur. The seventy-two hour advance notice shall also include the brand name, concentration, rate of application, pesticide label and material safety data sheet and any use restrictions required by the pesticide label. Only an individual holding an applicator license may make pesticide applications at schools AND CHILD CARE FACILITIES.

B. Immediately prior to application of a pesticide a business licensee or licensed applicator shall provide the school OR CHILD CARE FACILITY with a written preapplication notification containing the following information:

1. The brand name, concentration and rate of application and any use restrictions required by the label of the herbicide or specific pesticide.

2. The area or areas where the pesticide is to be applied.

3. The date and time the application is to occur.

4. The pesticide label and the material safety data sheet.

C. The pesticide label and material safety data sheet may be used in place of the information required pursuant to subsections A and B of this section if all of the information required by those subsections is already contained on the label or material safety data sheet.

D. The following pesticide applications are exempt from the notification requirement prescribed in subsections A and B of this section:

1. Nonresidual pesticide applications performed or contracted by public health agencies for adult vector control, provided that oral notification is attempted AT LEAST SEVENTY-TWO HOURS BEFORE THE APPLICATION, when possible, to the school office OR CHILD CARE FACILITY OFFICE with a statement of the pest problem, treatment procedure, area to be treated and approximate time of the application.

2. Emergency ~~pesticide~~ applications OF A PESTICIDE THAT HAS A TOXICITY CATEGORY OF III OR IV PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 to control harmful pests that pose an immediate threat to the public health. Under ~~these~~ THE circumstances DESCRIBED IN THIS PARAGRAPH OR PARAGRAPH 1 OF THIS SUBSECTION, the business licensee or licensed applicator shall do all of the following:

(a) Notify the school office OR CHILD CARE FACILITY OFFICE before the application with a statement of the pest problem, treatment procedure, area to be treated and approximate time of application.

(b) Immediately after the application has been completed, notify the school office OR THE CHILD CARE FACILITY OFFICE of the name of the pesticide applied, the formulation, the strength and dosage and the date and time of application and provide the pesticide label.

(c) Post the treated area immediately after the application. The posting shall BE AT LEAST EIGHT AND ONE-HALF INCHES BY ELEVEN INCHES AND SHALL include the name of the pesticide, THE REGISTRATION NUMBER ISSUED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, the date and time of application and the name and telephone number of the business licensee and licensed applicator. A COPY OF THE POSTING SHALL ALSO BE PLACED AT THE MAIN ENTRANCE TO THE SCHOOL OR CHILD CARE FACILITY. THE POSTING AND THE COPY OF THE POSTING SHALL REMAIN IN PLACE FOR AT LEAST FORTY-EIGHT HOURS AFTER THE APPLICATION.

3. DISINFECTANTS OR SWIMMING POOL CHEMICALS.

4. BLOCK, GEL OR PASTE-TYPE BAIT THAT IS A TOXICITY CATEGORY III OR IV FORMULATION OF INSECTICIDE PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 AND THAT IS EITHER OF THE FOLLOWING:

(a) SECURED IN AN ENCLOSED, TAMPER-RESISTANT BAIT STATION AND PLACED IN AN AREA THAT IS INACCESSIBLE TO CHILDREN.

(b) APPLIED TO A CRACK OR CREVICE INACCESSIBLE TO CHILDREN.

5. BLOCK-TYPE BAIT THAT IS A TOXICITY LEVEL III OR IV FORMULATION OF RODENTICIDE PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 AND THAT IS SECURED IN AN ENCLOSED, TAMPER-RESISTANT BAIT STATION PLACED IN AN AREA INACCESSIBLE TO CHILDREN.

6. PERSONAL REPELLANTS.

7. ANY PESTICIDE EXEMPT FROM REGULATION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (7 UNITED STATES CODE SECTION 136w).

E. The provisions of this chapter shall regulate and determine all requirements regarding licenses, fees, testing, education, and all other requirements regarding the business of pest control for persons licensed pursuant to this chapter.

F. For the purposes of this section:

1. "CHILD CARE FACILITY" MEANS A FACILITY REGULATED PURSUANT TO TITLE 36, CHAPTER 7.1.

~~1.~~ 2. "Pesticides" does not include nonrestricted use disinfectants, sanitizers or deodorizers.

~~2.~~ 3. "~~Schools~~ SCHOOL" means an ~~education~~ EDUCATIONAL institution that provides instruction in ~~pre-kindergarten~~ PREKINDERGARTEN programs, kindergarten programs or any of grades one through twelve.

Sec. 2. Title 36, chapter 7.1, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. NOTIFICATION OF PESTICIDE APPLICATION

36-898. Licensees; pesticide application; notice; definitions

A. THE DIRECTOR, IN CONSULTATION WITH LICENSEES, PERSONNEL OF LICENSEES, PARENTS, GUARDIANS, ADMINISTRATORS, MEMBERS OF THE PUBLIC, A QUALIFYING PARTY AND AT LEAST ONE HEALTH PROFESSIONAL, SHALL DEVELOP AND ADOPT A POLICY TO PROVIDE PARENTS, GUARDIANS, CHILDREN AND PERSONNEL WITH AT LEAST FORTY-EIGHT HOURS' NOTICE BEFORE PESTICIDES ARE APPLIED ON LICENSEE PROPERTY.

B. THE POLICY SHALL INCLUDE AT LEAST THE FOLLOWING:

1. PROCEDURES FOR PROVIDING THE NOTIFICATION INCLUDING:

(a) PROCEDURES FOR WRITTEN NOTIFICATION TO PARENTS, GUARDIANS OR AN INDIVIDUAL AUTHORIZED BY A PARENT OR GUARDIAN DURING A REGULAR CHILD CARE SESSION.

(b) PROCEDURES FOR REQUIRING THE LICENSEE TO POST SIGNS TO IDENTIFY PESTICIDE APPLICATION AREAS.

2. PROCEDURES FOR REQUIRING ANY CONTRACTED PEST CONTROL APPLICATOR TO PROVIDE DETAILED AND SUFFICIENT INFORMATION TO LICENSEES FOR THE PURPOSE OF COMPLETING THE POSTING MATERIALS.

C. THE POLICY SHALL INCLUDE EXEMPTIONS FOR THE FOLLOWING PESTICIDE APPLICATIONS:

1. NONRESIDUAL PESTICIDE APPLICATIONS PERFORMED OR CONTRACTED BY PUBLIC HEALTH AGENCIES FOR ADULT VECTOR CONTROL.

2. EMERGENCY PESTICIDE APPLICATIONS OF A PESTICIDE THAT HAS A TOXICITY CATEGORY OF III OR IV PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 TO CONTROL HARMFUL PESTS THAT POSE AN IMMEDIATE THREAT TO THE PUBLIC HEALTH.

3. DISINFECTANTS OR SWIMMING POOL CHEMICALS.

4. BLOCK, GEL OR PASTE-TYPE BAIT THAT IS A TOXICITY CATEGORY III OR IV FORMULATION OF INSECTICIDE PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 AND THAT IS EITHER OF THE FOLLOWING:

(a) SECURED IN AN ENCLOSED, TAMPER-RESISTANT BAIT STATION AND PLACED IN AN AREA THAT IS INACCESSIBLE TO CHILDREN.

(b) APPLIED TO A CRACK OR CREVICE INACCESSIBLE TO CHILDREN.

5. BLOCK-TYPE BAIT THAT IS A TOXICITY LEVEL III OR IV FORMULATION OF RODENTICIDE PURSUANT TO 40 CODE OF FEDERAL REGULATIONS SECTION 156.62 AND THAT IS SECURED IN AN ENCLOSED, TAMPER-RESISTANT BAIT STATION PLACED IN AN AREA INACCESSIBLE TO CHILDREN.

6. PERSONAL REPELLANTS.

7. ANY PESTICIDE EXEMPT FROM REGULATION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (7 UNITED STATES CODE SECTION 136w).

D. EACH LICENSEE SHALL MAINTAIN WRITTEN RECORDS OF PESTICIDE APPLICATION NOTIFICATIONS FOR A PERIOD OF AT LEAST THREE YEARS AFTER THE APPLICATION. THE LICENSEE MAY DELEGATE TO THE PEST CONTROL APPLICATOR THE DUTY TO FILL OUT AND POST NOTICES REQUIRED BY DEPARTMENT POLICY. A LICENSEE IS NOT REQUIRED TO MAINTAIN RECORDS OF PESTICIDES THAT ARE EXEMPT PURSUANT TO SUBSECTION C OF THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION:

1. "CHILD CARE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-881.

2. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

3. "LICENSEE" MEANS A PERSON WHO IS REGULATED PURSUANT TO THIS CHAPTER.

4. "PESTICIDES" INCLUDES PESTICIDES REGULATED UNDER THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (P.L. 100-532; 102 STAT. 2654; 7 UNITED STATES CODE SECTION 136) EXCEPT FOR NONRESTRICTED USE DISINFECTANTS, SANITIZERS OR DEODORIZERS REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT.

5. "QUALIFYING PARTY" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-2301.

Sec. 3. Appropriation; purpose

The sum of $100,000 and two FTE positions are appropriated from the structural pest control commission fund in fiscal year 2006-2007 to the structural pest control commission for the purposes of this act.

Sec. 4. Effective date

Section 32-2307, Arizona Revised Statutes, as amended by this act, is effective from and after January 1, 2007.

APPROVED BY THE GOVERNOR JUNE 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2006.