



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 682 (as enacted)  
Sponsor: Senator Michelle A. McManus  
Senate Committee: Agriculture  
House Committee: Agriculture

**PUBLIC ACT 18 of 2008**

Date Completed: 4-22-09

**CONTENT**

**The bill amended Part 13 (Permits), Part 83 (Pesticide Control), and Part 87 (Groundwater and Freshwater Protection) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:**

- **Establish an agricultural pesticide dealer license, with an annual license application fee of \$100.**
- **Permit the Director of the Michigan Department of Agriculture (MDA) to deny, revoke, or suspend an agricultural pesticide dealer license or a restricted use pesticide dealer license for any violation of Part 83 or an order issued under that part, or for a conviction under Part 83, a Federal pesticide law, or a pesticide law of a reciprocating state.**
- **Require an agricultural pesticide dealer or restricted use pesticide dealer operating from outside the State to maintain a registered office and a resident agent located in Michigan.**
- **Require an agricultural pesticide dealer or a restricted use pesticide dealer distributing pesticide into the State to report to the agricultural pesticide registrant certain information regarding the distribution.**
- **Delay from December 31, 2010, to December 31, 2013, the sunset on groundwater protection fees paid by pesticide and fertilizer registrants and licensees.**

The bill took effect on February 29, 2008, and is described in detail below.

Restricted Use Pesticide Dealer

Part 83 prohibits a person from distributing, selling, or offering for sale restricted use pesticides to the ultimate user except as authorized under an annual license for each place of business issued under Part 13, which provides for the issuance of certain permits and operating licenses that are required under NREPA. Part 13 previously included a restricted use pesticide dealer business location license. The bill instead refers to a restricted use pesticide dealer license.

Under the bill, a person licensed as a restricted use pesticide dealer who operates from a business location outside the State must maintain in the State both a registered office and a resident agent. The agent may be an individual resident in the State whose business office or residence is identical to the registered office, a domestic corporation or limited liability company (LLC), or a foreign corporation or LLC authorized to transact business in the State and having a business office identical to the registered office. The person licensed as a restricted use pesticide dealer must file with the MDA the name, address, and telephone number of the resident agent.

Part 83 permits the MDA Director to deny, suspend, or revoke a restricted use pesticide dealer license for a violation of the part committed by the dealer or the dealer's officer, agent, or employee. Under the bill,

the Director also may take those actions for any violation of an order issued under Part 83 or upon conviction under the part, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or a state pesticide law of a reciprocating state committed by a dealer or a dealer's officer, agent, or employee.

The bill requires the MDA Director to inform an applicant who is denied a restricted use pesticide dealer license of the reasons that the license was denied.

Under the bill, a restricted use pesticide dealer who distributes agricultural pesticides into the State must report to the agricultural pesticide registrant all of the following information concerning that distribution:

- The product name.
- The Environmental Protection Agency (EPA) registration number.
- The amount and wholesale value of pesticide sold or distributed.
- The date of sale or distribution.
- The sales or distribution invoice number.
- The name and address of the consignee.

The bill defines "agricultural pesticide" as a pesticide bearing labeling that meets Federal worker protection agricultural use requirements established in 40 CFR Parts 156 and 170.

(Part 156 of Title 40 of the Code of Federal Regulations deals with labeling requirements for pesticides and devices, and requires every pesticide product to bear a label containing specific information about the product, including its name and registration number, an ingredient statement, hazard and precautionary statements, and the name and address of the producer, registrant, or person for whom the product was produced. Part 170 establishes worker protection standards, and requires an employer to ensure that a pesticide handler either has read the product labeling or has been informed of all labeling requirements before the handler handles a pesticide. The employer also must ensure that the handler has access to the product labeling information during handling activities.)

#### Agricultural Pesticide Dealer

The bill defines "agricultural pesticide dealer" as a person engaged in distributing,

selling, or offering for sale an agricultural pesticide to the ultimate user.

The bill prohibits a person who is not licensed as a restricted use pesticide dealer from distributing, selling, or offering for sale agricultural pesticides except as authorized under an annual license for each place of business, issued by the MDA under Part 13.

The applicant for an agricultural pesticide dealer license must be the individual in charge of each business location. The application must be on a form provided by the MDA Director and must contain information regarding the applicant's proposed operations and other information considered pertinent by the Director.

A person licensed as an agricultural pesticide dealer who operates from a business location outside the State must maintain in the State both a registered office and a resident agent. The agent may be either an individual resident in the State whose business office or residence is identical to the registered office, a domestic corporation or LLC, or a foreign corporation or LLC authorized to transact business in the State and having a business office identical to the registered office. The person licensed as an agricultural pesticide dealer must file with the MDA the name, address, and telephone number of the resident agent.

An agricultural pesticide dealer who distributes agricultural pesticides from outside the State into the State must report to the agricultural pesticide registrant all of the following information concerning the distribution:

- The product name.
- The EPA registration number.
- The amount and wholesale value of pesticide sold or distributed.
- The date of sale or distribution.
- The sales or distribution invoice number.
- The name and address of the consignee.

The MDA Director may deny, suspend, or revoke an agricultural pesticide dealer license if the dealer or the dealer's officer, agent, or employee commits any violation of Part 83 or an order issued under that part, or upon conviction under Part 83, FIFRA, or a state pesticide law of a reciprocating state.

The Director must inform an applicant who is denied an agricultural pesticide dealer license of the reasons for the denial.

The license application fee for an agricultural pesticide dealer license is \$100. The license expires annually on December 31.

#### Rules

Under Part 83, the MDA Director is required to promulgate rules for implementing the part, including rules for the designation of restricted use pesticides for the State or for specified areas within the State. The Director may include in the rules the time and conditions of sale, distribution, and use of restricted use pesticides. Under the bill, these provisions apply to agricultural pesticides, as well.

The Director also is required to promulgate rules for the certification and licensing of applicators and the licensing of restricted use pesticide dealers. Under the bill, those rules also must include the licensing of agricultural pesticide dealers.

#### Definition

The bill revised the definition of "distribute" under Part 83. The term means to offer for sale, hold for sale, sell, barter, ship, or deliver pesticides in the State, or, under the bill, "inventory or receive for others for a period greater than 21 days".

#### Sunset

The bill postponed the sunset on Section 8715 of NREPA from December 31, 2010, to December 31, 2013.

(That section requires a registrant under Part 83 to pay an annual groundwater protection fee for each product to be registered. The fee for specialty pesticides is \$100 per product. The fee for all other pesticides is 0.75% of the wholesale value of the previous registration year's product sales for use in the State, with a minimum of \$150.

Also, under this section, a person required to pay a specialty fertilizer or soil conditioner registration fee under Part 85 (Fertilizers) must pay a \$100 groundwater protection fee for each brand and product name of each brand registered. All other licensed fertilizer

manufacturers or distributors must pay a groundwater protection fee of one and one-half cents per percent of nitrogen in the fertilizer for each ton sold.)

MCL 324.1301 et al.

Legislative Analyst: Curtis Walker

#### **FISCAL IMPACT**

The fiscal impact of the bill cannot be determined at this time. The number of agricultural pesticide dealers who will be affected is unknown.

Fiscal Analyst: Debra Hollon

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.