

HOUSE BILL No. 6356

September 25, 2018, Introduced by Reps. Moss, Wittenberg, Sowerby, Greig and Faris and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8325, 8516, and 8520 (MCL 324.8325, 324.8516, and 324.8520), section 8325 as amended by 2008 PA 18, section 8516 as added by 1995 PA 60, and section 8520 as amended by 2010 PA 299, and by adding sections 8316a and 8512d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 8316A. A COMMERCIAL APPLICATOR MAKING A BROADCAST,**
2 **FOLIAR, OR SPACE APPLICATION OF A PESTICIDE TO AN ORNAMENTAL OR**
3 **TURF SITE, INCLUDING, BUT NOT LIMITED TO, A RESIDENTIAL SITE, AND**
4 **OTHER THAN A GOLF COURSE OR FARM PRODUCTION AREA, SHALL POST A SIGN**
5 **NOTIFYING THE PUBLIC OF THE APPLICATION. A SIGN POSTED UNDER THIS**
6 **SECTION SHALL COMPLY WITH THE RULES ADOPTED UNDER SECTION**
7 **8325(1) (G) .**

8 Sec. 8325. (1) The director shall promulgate rules for

1 implementing this part, including, but not limited to, rules
2 providing for the following:

3 (a) The ~~collection, examination,~~ **COLLECTION AND EXAMINATION**
4 **OF,** and **THE** reporting **OF** the results of **THE** examination of, samples
5 of pesticides or devices.

6 (b) The safe handling, transportation, storage, display,
7 distribution, and disposal of pesticides and their containers.

8 (c) The designation of restricted use pesticides and
9 agricultural pesticides for the state or for specified areas within
10 the state. The director may include in the rule the time and
11 conditions of sale, distribution, and use of restricted use
12 pesticides and agricultural pesticides.

13 (d) The certification and licensing of applicators and the
14 licensing of restricted use pesticide dealers and agricultural
15 pesticide dealers.

16 (e) The maintenance of records by certified commercial
17 applicators with respect to applications of restricted use
18 pesticides.

19 (f) Good practice in the use of pesticides.

20 (g) Notification or posting, or both, designed to inform
21 persons entering certain public or private buildings or other areas
22 where the application of a pesticide, other than a general use
23 ready-to-use pesticide, has occurred. **RULES PROMULGATED UNDER THIS**
24 **SUBDIVISION THAT APPLY TO THE POSTING OF SIGNS UNDER SECTION 8316A**
25 **SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:**

26 (i) **A COMMERCIAL APPLICATOR MUST WRITE THE TIME AND DATE OF**
27 **THE PESTICIDE APPLICATION ON THE SIGN. A SIGN THAT IS PRODUCED,**

1 SUPPLIED, OR OTHERWISE USED FOR PROVIDING PUBLIC NOTICE UNDER
2 SECTION 8316A MUST INCLUDE A SPACE FOR WRITING THE DATE OF THE
3 PESTICIDE APPLICATION THAT IS LABELED "DATE" AND A SPACE FOR
4 WRITING THE TIME OF THE PESTICIDE APPLICATION THAT IS LABELED
5 "TIME".

6 (ii) A COMMERCIAL APPLICATOR MUST PLACE A SIGN AT THE EDGE OF
7 EACH PERIMETER OF A TREATED AREA THAT IS APPROACHABLE BY THE
8 PUBLIC.

9 (iii) A COMMERCIAL APPLICATOR MUST PLACE NO FEWER THAN 2 SIGNS
10 IN A TREATED AREA.

11 (iv) A COMMERCIAL APPLICATOR MUST PLACE A SIGN AT EACH COMMON
12 POINT OF ENTRY ADJACENT TO A TREATED AREA, INCLUDING, BUT NOT
13 LIMITED TO, DRIVEWAYS AND WALKWAYS.

14 (h) Use of a pesticide in a manner consistent with its
15 labeling including adequate supervision of noncertified applicators
16 if appropriate.

17 (i) Prenotification by the building manager upon request for
18 affected persons regarding the application of a pesticide at
19 daycare centers and schools.

20 (j) Responsibility of a building manager to post signs
21 provided to him or her by a commercial applicator.

22 (k) Designation of posted school bus stops as sensitive areas.

23 (l) The ~~establishing~~ **ESTABLISHMENT** of a schedule of civil
24 fines for violation of local ordinances as described in section
25 8328(3).

26 (2) By December 27, 1989, the director shall submit rules to
27 the joint committee on administrative rules ~~pertaining to~~

1 **CONCERNING** all of the following:

2 (a) The development of a training program for applicators who
3 apply pesticides for private agricultural purposes on the use of
4 appropriate procedures for the application of ~~pesticides;~~
5 **PESTICIDES**, safety procedures for pesticide ~~application;~~
6 **APPLICATION**, clothing and protective equipment for pesticide
7 ~~application;~~ **APPLICATION**, the detection of common symptoms of
8 pesticide ~~poisoning;~~ **POISONING**, the means of obtaining emergency
9 medical ~~treatment;~~ **TREATMENT**, hazards posed by pesticides to
10 workers, the public health, and the ~~environment;~~ **ENVIRONMENT**,
11 specific categories of ~~pesticides;~~ **PESTICIDES**, and the requirements
12 of applicable laws, rules, and labeling.

13 (b) The development of training programs for integrated pest
14 management systems in schools, public buildings, and health care
15 facilities.

16 (c) The duty of commercial applicators to inform customers of
17 potential risks and benefits associated with the application of
18 pesticides.

19 (3) By June 27, 1990, the director shall submit rules to the
20 joint committee on administrative rules ~~pertaining to~~ **CONCERNING**
21 the protection of agriculture employees who hand harvest
22 agricultural commodities regarding all of the following:

23 (a) The establishment of field reentry periods after the
24 application of agricultural pesticides.

25 (b) The posting and notification of areas where pesticides
26 have been applied.

27 (c) The use of protective clothing, safety devices, hand

1 washing, or other methods of protection from pesticide exposure.

2 (d) Notification of agricultural workers of poison treatment
3 facilities.

4 (4) If the EPA at any time adopts and publishes agricultural
5 worker protection standards, the federal standards shall supersede
6 rules promulgated under subsection (3).

7 (5) By December 27, 1989, the director shall submit rules to
8 the joint committee on administrative rules. These rules shall
9 include all of the following:

10 (a) Minimum standards of competency and experience or
11 expertise for trainers of certified and registered applicators.

12 (b) The development of a training program for applicators on
13 the use of appropriate procedures for the application of
14 ~~pesticides;~~ **PESTICIDES**, safety procedures for pesticide
15 ~~application;~~ **APPLICATION**, clothing and protective equipment for
16 pesticide ~~application;~~ **APPLICATION**, the detection of common
17 symptoms of pesticide ~~poisoning;~~ **POISONING**, the means of obtaining
18 emergency medical ~~treatment;~~ **TREATMENT**, hazards posed by pesticides
19 to workers, the public health, and the ~~environment;~~ **ENVIRONMENT**,
20 specific categories of ~~pesticides;~~ **PESTICIDES**, and the requirements
21 of applicable laws, rules, and labeling.

22 (c) The number of directly supervised application hours
23 required before a registered applicator may apply each category of
24 restricted use pesticide without direct supervision.

25 **SEC. 8512D. A PERSON MAKING A BROADCAST, FOLIAR, OR SPACE**
26 **APPLICATION OF A FERTILIZER TO AN ORNAMENTAL OR TURF SITE,**
27 **INCLUDING, BUT NOT LIMITED TO, A RESIDENTIAL SITE, AND OTHER THAN A**

1 GOLF COURSE OR FARM PRODUCTION AREA, SHALL POST A SIGN NOTIFYING
2 THE PUBLIC OF THE APPLICATION. A SIGN POSTED UNDER THIS SECTION
3 SHALL COMPLY WITH THE RULES ADOPTED UNDER SECTION 8516.

4 Sec. 8516. (1) The director of the department shall enforce
5 this part and may promulgate rules.

6 (2) RULES PROMULGATED UNDER THIS SECTION THAT APPLY TO THE
7 POSTING OF SIGNS UNDER SECTION 8512D SHALL INCLUDE, BUT ARE NOT
8 LIMITED TO, THE FOLLOWING:

9 (A) A PERSON MUST DO ALL OF THE FOLLOWING:

10 (i) WRITE THE TIME AND DATE OF THE FERTILIZER APPLICATION ON
11 THE SIGN. A SIGN THAT IS PRODUCED, SUPPLIED, OR OTHERWISE USED FOR
12 PROVIDING PUBLIC NOTICE UNDER SECTION 8512D MUST INCLUDE A SPACE
13 FOR WRITING THE DATE OF THE FERTILIZER APPLICATION THAT IS LABELED
14 "DATE" AND A SPACE FOR WRITING THE TIME OF THE FERTILIZER
15 APPLICATION THAT IS LABELED "TIME".

16 (ii) PLACE A SIGN AT THE EDGE OF EACH PERIMETER OF A TREATED
17 AREA THAT IS APPROACHABLE BY THE PUBLIC.

18 (iii) PLACE NO FEWER THAN 2 SIGNS IN A TREATED AREA.

19 (iv) PLACE A SIGN AT EACH COMMON POINT OF ENTRY ADJACENT TO A
20 TREATED AREA, INCLUDING, BUT NOT LIMITED TO, DRIVEWAYS AND
21 WALKWAYS.

22 (B) A SIGN MUST MEET ALL OF THE FOLLOWING SPECIFICATIONS:

23 (i) THE SIGN IS 4 INCHES HIGH BY 5 INCHES WIDE.

24 (ii) THE SIGN IS CONSTRUCTED OF RIGID, WEATHER-RESISTANT
25 MATERIAL.

26 (iii) THE SIGN IS ATTACHED TO A SUPPORTING DEVICE WITH THE
27 BOTTOM OF THE MARKER EXTENDING NOT LESS THAN 12 INCHES ABOVE THE

1 TURF.

2 (iv) THE SIGN IS IDENTICALLY PRINTED ON BOTH SIDES IN GREEN
3 LETTERS ON A WHITE BACKGROUND.

4 (C) A SIGN MUST INCLUDE ALL OF THE FOLLOWING PRINTED ITEMS:

5 (i) THE WORD "CAUTION" IN 11/16-INCH HIGH, 72-POINT TYPE.

6 (ii) THE PHRASE "FERTILIZER APPLICATION" IN 9/32-INCH, 30-
7 POINT TYPE.

8 (iii) THE PHRASE "KEEP OFF UNTIL DRY" IN 9/32-INCH, 30-POINT
9 TYPE.

10 (iv) A CIRCULAR ILLUSTRATION OF NOT LESS THAN A 2-INCH
11 DIAMETER THAT DEPICTS AN ADULT AND CHILD WALKING A DOG ON A LEASH
12 AND INDICATES THAT THE DEPICTED ACTION IS PROHIBITED BY USING A
13 DIAGONAL LINE THAT IS DRAWN ACROSS THE CIRCLE.

14 (v) THE PHRASE "CUSTOMER: PLEASE REMOVE AFTER 24 HOURS" IN
15 3/32-INCH, 11-POINT TYPE.

16 Sec. 8520. (1) A person ~~who~~**THAT** violates or attempts to
17 violate this part or rules promulgated under this part is subject
18 to the penalties and remedies provided in this part regardless of
19 whether he or she acted directly or through an employee or agent.

20 (2) The director, upon finding after notice and an opportunity
21 for an administrative hearing that a person has violated or
22 attempted to violate ~~any~~**A** provision of this part or a rule
23 promulgated under this part, may impose an administrative fine of
24 not more than \$1,000.00 for each violation or attempted violation.
25 A person shall not be fined under both this subsection and
26 subsection (7) for the same violation or attempted violation. A
27 person shall not be fined under this subsection for a violation

1 described in subsection (7) (b) .

2 (3) If the director finds that a violation or attempted
3 violation has occurred despite the exercise of due care or did not
4 result in significant harm to human health or the environment, the
5 director may issue a warning instead of imposing an administrative
6 fine.

7 (4) The director shall advise the attorney general of the
8 failure of ~~any~~**A** person to pay an administrative fine imposed under
9 this section. The attorney general shall bring an action in a court
10 of competent jurisdiction to recover the fine.

11 (5) A person ~~who~~**THAT** violates this part or a rule promulgated
12 under this part, or attempts to violate this part or a rule
13 promulgated under this part, is guilty of a misdemeanor punishable
14 by imprisonment for not more than 90 days or a fine of not more
15 than \$5,000.00 for each violation or attempted violation, in
16 addition to any administrative fines imposed. This subsection does
17 not apply to a violation or attempted violation of section 8512b,
18 ~~or~~**8512D, OR** 8512f.

19 (6) A person ~~who~~**THAT** knowingly and with malicious intent
20 violates or attempts to violate this part or a rule promulgated
21 under this part is guilty of a misdemeanor punishable by
22 imprisonment for not more than 90 days or a fine of not more than
23 \$25,000.00 for each offense. This subsection does not apply to a
24 violation or attempted violation of section 8512b, ~~or~~**8512D, OR**
25 8512f.

26 (7) A person ~~who~~**THAT** violates or attempts to violate section
27 8512b, ~~or~~**8512D, OR** 8512f is responsible for a state civil

1 infraction and may be ordered to pay a civil fine of not more than
2 the following for each violation or attempted violation:

3 (a) Except as provided in subdivision (b), not more than
4 \$1,000.00.

5 (b) Not more than \$50.00 if all of the following apply:

6 (i) The violation or attempted violation occurs on a single-
7 family residential parcel, or any other parcel or contiguous
8 parcels with a total of not more than 4 acres of turf.

9 (ii) The violation or attempted violation is committed by the
10 property owner or lessee, a member of his or her family, or a
11 ~~person~~**AN INDIVIDUAL** who resides on the property.

12 (8) The director may bring an action to enjoin the violation
13 or threatened violation of this part or a rule promulgated under
14 this part in a court of competent jurisdiction of the county in
15 which the violation occurs or is about to occur.

16 (9) The attorney general may file a civil action in which the
17 court may impose on ~~any~~**A** person ~~who~~**THAT** violates or attempts to
18 violate this part or a rule promulgated under this part, other than
19 section 8512b, ~~or~~**8512D**, **OR** 8512f, a civil fine of not more than
20 \$5,000.00 for each violation or attempted violation. In addition,
21 the attorney general may bring an action in circuit court to
22 recover the reasonable costs of the investigation from ~~any~~**A** person
23 ~~who~~**THAT** violated this part or attempted to violate this part.
24 Money recovered under this subsection shall be forwarded to the
25 state treasurer for deposit into the fund.

26 (10) In defense of an action filed under this section for a
27 violation or attempted violation of this part, in addition to any

1 other lawful defense, a person may present evidence as an
2 affirmative defense that, at the time of the alleged violation or
3 attempted violation, he or she was in compliance with this part and
4 rules promulgated under this part.

5 (11) A person ~~who~~**THAT** violates this part is liable for all
6 damages sustained by a purchaser of a product sold in violation of
7 this part. In an enforcement action, a court, in addition to other
8 sanctions provided by law, may order restitution to a party injured
9 by the purchase of a product sold in violation of this part.

10 (12) A civil action filed ~~pursuant to~~**UNDER** this part is
11 subject to applicable provisions of the revised judicature act of
12 1961, 1961 PA 236, MCL 600.101 to 600.9947.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.