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2023 South Dakota Legislature

House Bill 1121

Introduced by: Representative Drew Peterson

- 1 An Act to expand the definition of a pesticide dealer.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. That § 38-21-14 be AMENDED:
- 4 **38-21-14.** Terms used in this chapter mean: 5 "Animals," all vertebrate and invertebrate species, including humans; (1)6 (2) "Bulk pesticide," any volume of a pesticide, which is transported or held in an 7 immediate reusable container, in undivided quantities greater than one hundred 8 pounds net dry weight or fifty-five United States gallons liquid measure. The term 9 does not include, but not including pesticides that are in the custody of the ultimate 10 user and are fully prepared for use by the user; "Bulk pesticide storage facility," any area, location, tract of land, building, 11 (3) 12 structure, or premises constructed, in accordance with rules promulgated by the 13 secretary, for the storage of bulk pesticides; 14 "Certified applicator," any individual who is certified under this chapter to use any (4) 15 pesticide; "Commercial applicator," any certified applicator eighteen years of age or older 16 (5) 17 who uses any pesticide on any property, other than as a private applicator; "Defoliant," any substance or mixture of substances intended for causing the leaves 18 (6) or foliage to drop from a plant, with or without causing abscission; 19 "Desiccant," any substance or mixture of substances intended for artificially 20 (7) accelerating the drying of plant tissue; 21 22
 - (8) "Device," any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or for destroying, repelling, or mitigating fungi, weeds, rodents, or any other pests designated by the secretary, but not including equipment used for the application of pesticides, if sold separately, and not including rodent traps;

"Environment," includes water, air, land, and all plants and animals living therein, 1 (9) 2 and the interrelationships which that exist among these; 3 (10)"Equipment," any type of ground, water, or aerial equipment or any device using motorized, mechanical, or pressurized power used to apply any pesticide, but does 4 5 not include-including any pressurized, hand-sized, household device that requires 6 the person applying the pesticide to be the source of power or energy to make the 7 pesticide application; 8 (11)"Fungus," any nonchlorophyll-bearing thallophyte, except those on or in processed 9 food, beverages, or pharmaceuticals, or those on or in living animals; "Insect," any of the numerous small invertebrate animals belonging to the class 10 (12)11 insecta or to other allied classes of arthropods; 12 (13)"Labeling," any label and other written, printed, or graphic matter: 13 On the pesticide or device or any of its-containers or wrappers; (a) 14 Accompanying the pesticide or device at any time; or (b) 15 To which reference is made on the label or in literature accompanying the (c) 16 pesticide or device, except accurate, nonmisleading reference to current 17 official publications of any government institution or official agency of the 18 United States or of this or any other state, authorized by law to conduct 19 research in the field of pesticides; 20 "Land," all land and water areas, including airspace, and all plants, animals, (14)21 structures, buildings, contrivances, and machinery, appurtenant thereto or 22 situated thereon, fixed or mobile, including any used for transportation; "Pesticide dealer," any entity that distributes a person who distributes: 23 (15)24 <u>A</u>restricted-use pesticides or pesticides pesticide; 25 (b) A pesticide that is restricted in use or distribution, by regulation; or 26 A pesticide that is to be applied to agricultural land and is provided in a (c) 27 container larger than one hundred gallons; 28 (16)"Nematode," any invertebrate animal of the phylum ne-mathel-minthes or 29 nematoda; 30 (17)"Pest," any insect, rodent, nematode, fungus, weed, or other form of terrestrial or 31 aquatic plant or animal life or virus, bacteria, or other microorganism, except 32 viruses, bacteria, or other microorganisms on or in living human or other living animals, which the secretary declares to be a pest; 33 "Pesticide," any substance or mixture of substances intended for preventing, 34 (18)35 destroying, repelling, or mitigating intended:

1		(a) To prevent, destroy, repel, or mitigate any pest, or any substance or
2		mixture of substances intended for use;
3		(b) To be used as a plant regulator, defoliant, or desiccant or any substance or
4		mixture of substances intended to; or
5		(c) To be used as a spray adjuvant;
6	(19)	"Plant regulator," any substance or mixture of substances, intended, through
7		physiological action, for accelerating or retarding the rate of growth or rate of
8		maturation, or for otherwise altering the behavior of ornamental or crop plants or
9		the produce thereof, but—does not—include_including substances to the extent
10		thatthey are intended as plant nutrients, trace elements, nutritional chemicals,
11		plant inoculants, or soil amendments;
12	(20)	"Private applicator," a certified applicator over the age of eighteen who:
13		(a) Uses any pesticide, other than a restricted-use pesticide, for purposes of
14		producing any agricultural commodity amounting to greater than one
15		thousand dollars gross sales potential per year, on property owned or
16		rented by the private applicator or the private applicator's employer; or
17		(b) Uses any restricted-use pesticide for the purpose of producing any
18		agricultural commodity on property owned or rented by the private
19		applicator or the private applicator's employer;
20		(c) Applies any pesticide on the property of another person, without
21		compensation, other than the trading of personal services between
22		producers of agricultural commodities; or
23		(d) Is not regularly in the business of applying pesticides for hire, amounting
24		to a principal or regular occupation, and is not held out to the public as a
25		commercial applicator;
26	(21)	"Registrant," the person registering any pesticide in accordance with the provisions
27		of this chapter;
28	(22)	"Restricted-use pesticide," any pesticide classified as a restricted-use pesticide by
29		the secretary;
30	(23)	"Rinsate," any solution containing pesticide residue, which is generated from
31		washing or flushing of pesticide containers and pesticide equipment;
32	(24)	"Secretary," the secretary of the Department of Agriculture and Natural Resources;
33	(25)	"Spray adjuvant," any wetting agent, spreading agent, sticker, deposit builder,
34		adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent
35		intended to be used with any other pesticide as an aid to the application or to the

1		effect thereof, and which is in a package or container separate from that of the
2		pesticide with which it is to be used;
3	(26)	"Unreasonable adverse effects on the environment," any unreasonable risk to
4		humans or the environment, taking into account the economic, $\operatorname{social}_{\boldsymbol{\iota}}$ and
5		environmental costs and benefits of the use of any pesticide; and
6	(27)	"Weed," any plant which that grows where it is not wanted.