



2023 South Dakota Legislature
House Bill 1121
ENROLLED

AN ACT

ENTITLED An Act to expand the definition of a pesticide dealer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 38-21-14 be AMENDED:

38-21-14. Terms used in this chapter mean:

- (1) "Animals," all vertebrate and invertebrate species, including humans;
- (2) "Bulk pesticide," any volume of a pesticide, which is transported or held in an immediate reusable container, in undivided quantities greater than one hundred pounds net dry weight or fifty-five United States gallons liquid measure, but not including pesticides that are in the custody of the ultimate user and are fully prepared for use by the user;
- (3) "Bulk pesticide storage facility," any area, location, tract of land, building, structure, or premises constructed, in accordance with rules promulgated by the secretary, for the storage of bulk pesticides;
- (4) "Certified applicator," any individual certified under this chapter to use any pesticide;
- (5) "Commercial applicator," any certified applicator eighteen years of age or older who uses any pesticide on any property, other than as a private applicator;
- (6) "Defoliant," any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;
- (7) "Desiccant," any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;
- (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;

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

- (b) To be used as a plant regulator, defoliant, or desiccant; or
 - (c) To be used as a spray adjuvant;
- (19) "Plant regulator," any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but not including substances to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;
- (20) "Private applicator," a certified applicator over the age of eighteen who:
- (a) Uses any pesticide, other than a restricted-use pesticide, for purposes of producing any agricultural commodity amounting to greater than one thousand dollars gross sales potential per year, on property owned or rented by the private applicator or the private applicator's employer;
 - (b) Uses any restricted-use pesticide for the purpose of producing any agricultural commodity on property owned or rented by the private applicator or the private applicator's employer;
 - (c) Applies any pesticide on the property of another person, without compensation, other than the trading of personal services between producers of agricultural commodities; or
 - (d) Is not regularly in the business of applying pesticides for hire, amounting to a principal or regular occupation, and is not held out to the public as a commercial applicator;
- (21) "Registrant," the person registering any pesticide in accordance with this chapter;
- (22) "Restricted-use pesticide," any pesticide classified as a restricted-use pesticide by the secretary;
- (23) "Rinsate," any solution containing pesticide residue, which is generated from washing or flushing of pesticide containers and pesticide equipment;
- (24) "Secretary," the secretary of the Department of Agriculture and Natural Resources;
- (25) "Spray adjuvant," any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used;

- (26) "Unreasonable adverse effects on the environment," any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide; and
- (27) "Weed," any plant that grows where it is not wanted.

An Act to expand the definition of a pesticide dealer.

I certify that the attached Act originated in
the:

House as Bill No. 1121

Received at this Executive Office
this _____ day of _____,
2023 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2023

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2023
at _____ o'clock ___ M.

Secretary of the Senate

Secretary of State

House Bill No. 1121
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State