

Pesticide Licensing and Mosquito Control

Mr. Ross moved that the proposed new text be amended by adding the following new section:-

SECTION XX. SECTION 1. Section 2 of chapter 132B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of “Nematode,” the following definition:-

“Permitted Catchbasin Larvicide Applicator”, an individual in the employ of a governmental unit who is permitted under the provisions of section 10 to use dry formulation mosquito larvicides that are approved by the department in storm drains and catchbasins. Each governmental unit must employ or be in contact with a certified or licensed applicator to supervise or consult with the permitted catchbasin larvicide applicators.

SECTION 2. Section 6A of said chapter 132B is hereby amended by striking out, in line 6, the words “or licensed” and inserting in place thereof the following:- , licensed or permitted.

SECTION 3. Said section 6A of said chapter 132B is hereby further amended by striking out, in line 7, the words “or license” and inserting in place thereof the following words:- , license or permit.

SECTION 4. Subsection (b) of section 6E of said chapter 132B is hereby amended by inserting, in line 19, after the words “licensed applicator” the following words:- or permitted catchbasin larvicide applicator.

SECTION 5. Chapter 132B is hereby amended by striking out section 10 and inserting in place thereof the following section:-

Section 10. Certifications, licenses and permits to use pesticides may be issued to individuals by the department in accordance with the provisions, standards and procedures contained in and established pursuant to this chapter. Each certification, license and permit issued pursuant to this section shall be valid only for the individual to whom it is issued, may not be transferred, and shall not continue in force and effect after the death of the individual to whom it is issued. All certifications, licenses and permits shall be for a period not to exceed one year, unless sooner, revoked or suspended.

The department may authorize individuals to use pesticides in classifications as a certified commercial applicator, a certified private applicator, a licensed applicator and a permitted catchbasin larvicide applicator provided, however, that the department shall require that all persons who are applicators of pesticides in public and private places used for human occupation and habitation, except residential properties with three or less dwelling units, shall be so permitted, licensed, or certified with such special designation.

The department may establish such categories and subcategories as it deems necessary to restrict or condition the scope of pesticide use permitted within each classification. The departments may establish such standards and criteria, take such action and impose such requirements as it deems necessary to determine or re-determine levels of competence and experience to qualify for each classification and each category and subcategory thereof.

Each applicant for a certification, license or permit shall annually file with the department an application providing thereon-such information as the department may require.

Each applicant desiring to be certified, licensed or permitted shall annually pay such application fee, not to exceed twenty dollars, as the department may by regulation require.

In the event that any individual files with the department an application to renew a certification, license or permit which is in effect on the date of the application for renewal and pays the appropriate fee therewith, such certification, license or permit shall be deemed to be in effect until the earlier of the following two events shall occur: ninety days have elapsed after the certification, license or permit was scheduled to expire; or the department notifies the applicant that the certification, license or permit has been renewed, modified or denied.

The department may issue a certification, license or permit to an applicant therefore if it determines that the applicant satisfies the criteria established for that certification, license or permit and the category or subcategory for which the certification, license or permit is sought. The department may thus issue a certification; license or permit subject to such terms, conditions, restrictions and requirements as it deems necessary. The department may require that an applicant for a certification, license or permit has obtained and maintains in effect a contract of liability insurance conforming to regulations established by the department.

The department shall prior to issuing a certificate, license or permit evaluate each applicant to determine his competence with respect to the use and handling of pesticides, or to the use and handling of the pesticides or class of pesticides covered or to be covered by said individual's certification, license or permit. Said evaluation shall include such examinations as the department may require. Examinations may be taken only upon payment of a fee; not to exceed ten dollars for each examination given, as the department may require by regulation approved by the board. Each examination shall include an evaluation of the applicant's competence with respect to the use of integrated pest management.

The department may revoke, suspend, cancel or deny any certification, license or permit, or any class thereof, at any time, if it believes: that the terms or conditions thereof are being violated or are inadequate to avoid unreasonable adverse impacts on the environment, or that the holder of or applicant for the certification, license or permit has violated any provision of this chapter or FIFRA or any regulation, standard, order, license, certification or permit issued thereunder or that the holder or applicant for said certification, license or permit is not competent with respect to the use and handling of pesticides, or to the use and handling of the pesticides or class of pesticides covered by said individual's certification, license or permit. Any person whose certification, license or permit is suspended or revoked hereunder shall also be subject to such other punishment, penalties, sanctions or liabilities as may be provided by law. As part of its determination to refuse to grant, to revoke, or to suspend a certification, license or permit the

department may specify a period not to exceed two years, within which the applicant may not reapply for a certification, license or permit. In the event that the department has refused to issue or has revoked or suspended such a certification, license or permit and has specified a period for non –application, the department may later, at its discretion, shorten or waive such period.

The department may, at its discretion, appropriately license, certify or permit any person possessing a valid certification or license, or equivalent rating, issued by the pesticide control agency of any other state or the federal government whose standards for the issuance of such rating are not less stringent than those of the department, provided that the pesticide control agency of that state extends similar privileges to persons so licensed, certified or permitted by the commonwealth. Any person so licensed, certified or permitted shall be subject to the annual fee requirements of this section.

SECTION 6. Section 13 of said chapter 132B is hereby amended by striking out, in line 4, the words “or license” and inserting in place thereof the following:- , license or permit.