HOUSE DOCKET, NO. 526 FILED ON: 1/18/2011

HOUSE . . . . . No. 228

The Commonwealth of Massachusetts

PRESENTED BY:

Jay R. Kaufman

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prevent the use of the most dangerous pesticides.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jay R. Kaufman	*15th Middlesex*
Ruth B. Balser	*12th Middlesex*
George T. Ross	*2nd Bristol*
Carolyn C. Dykema	*8th Middlesex*
Jennifer E. Benson	*37th Middlesex*
Frank I. Smizik	*15th Norfolk*
William N. Brownsberger	
Cory Atkins	*14th Middlesex*

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HOUSE . . . . . No. 228

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 228) of Jay R. Kaufman and others relative to regulating the use of dangerous pesticides in the Commonwealth. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *755* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to prevent the use of the most dangerous pesticides.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2 of chapter 132B of the General Laws is hereby amended by striking out, in line 80, the words "food and agriculture" and inserting in place thereof the following words:- agricultural resources.

SECTION 2. Section 2 of chapter 132B of the General Laws is hereby amended by inserting after "Fungi" the following definitions:-

"Health care facility," a health care facility as defined in section nine C of chapter one hundred and twelve.

"Hospital," any hospital licensed under section fifty-one of chapter one hundred and eleven, the teaching hospital of the University of Massachusetts Medical School and any psychiatric facility licensed under section nineteen of chapter nineteen.

11 SECTION 3. Section 2 of chapter 132B of the General Laws is hereby amended by
12 striking out the definition of “Integrated pest management” and inserting in place thereof the
13 following definition:-

14 "Integrated pest management", a comprehensive strategy of pest control whose major
15 objective is to achieve desired levels of pest control in a way that minimizes public health risks
16 and environmental damage by combining multiple pest control measures to reduce the need for
17 reliance on chemical pesticides; more specifically, a combination of pest controls which
18 addresses conditions that support pests and may include, but is not limited to, the use of
19 monitoring techniques to determine immediate and ongoing need for pest control, increased
20 sanitation, physical barrier methods, crop rotation, training, the use of natural pest enemies and a
21 judicious use of lowest risk pesticides when necessary.

22 SECTION 4. Section 2 of chapter 132B of the General Laws is hereby amended by
23 inserting after “Pesticide” the following definition:-

24 “Pesticide advisory subcommittee,” the subcommittee created by section 3B of this
25 chapter.

26 SECTION 5. Section 2 of chapter 132B of the General Laws is hereby amended by
27 inserting after “Plant regulator” the following definition:-

28 “Priority Toxic Pesticide,” any of the substances contained in the list promulgated by the
29 Pesticide Advisory Subcommittee pursuant to Section 3B of this chapter.

30 SECTION 6. Section 2 of chapter 132B of the General Laws is hereby amended by
31 inserting after “Protect health and the environment” the following definitions:-

32 “Public building,” any building owned, occupied, or used by any public entity including
33 but not limited to the commonwealth and any county, city, town, authority, transit or school
34 district, or any agency or instrumentality thereof.

35 “Public housing,” any federal, state or municipally subsidized housing or housing project.

36 SECTION 7. Section 2 of chapter 132B of the General Laws is hereby amended by
37 inserting after “Registrant” the following definition:-

38 “Retailer,” any private business that sells a product in the commonwealth.

39 SECTION 8. Chapter 132B of the General Laws is hereby amended by adding after
40 section 3A the following section:—

41 Section 3B. Pesticide advisory subcommittee. A subcommittee of the pesticide board
42 shall be the pesticide advisory subcommittee and shall create a list of priority toxic pesticides.
43 Said list shall be comprised of pesticides that are recognized as carcinogenic, mutagenic, or toxic
44 to development or reproduction when used as directed. This list will be subject to no fewer than
45 two public hearings in different regions of the commonwealth and an open public comment
46 period of not less than 90 days. The pesticide advisory subcommittee shall update this list every
47 two years or as health-related information becomes available regarding the toxicity of pesticides
48 not on the list. The subcommittee shall be appointed by the commissioner of the department and
49 shall consist of seven members: one representative from the Pesticide Board who shall chair the
50 subcommittee, one representative from the environmental community, one representative from
51 an occupational health group, one representative from the public health community, one
52 representative who is a physician or registered nurse, one licensed pesticide applicator, and one

53 representative from the University of Massachusetts at Amherst Extension Integrated Pest
54 Management Program.

55 SECTION 9. Within three months of the effective date of this section the pesticide
56 advisory subcommittee shall be appointed by the commissioner of the department of agricultural
57 resources pursuant to section 3B of chapter 132B.

58 SECTION 10. Section 6A of chapter 132B of the General Laws, as appearing in the 2004
59 Official Edition, is hereby amended by inserting after the word "license", in line 7, the following
60 words:- No individual certified or licensed as a pesticide applicator shall use any priority toxic
61 pesticide as designated by the pesticide advisory subcommittee pursuant to section 3B of this
62 chapter. This restriction shall not apply to certified or licensed pesticide applicators when
63 applying priority toxic pesticides in commercial agricultural settings.

64 No state, municipality, school, daycare center, hospital, health care facility, or public
65 housing buildings or grounds, shall use or permit to be used any priority toxic pesticide.

66 SECTION 11. Section 7A of chapter 132B of the General Laws, is hereby amended by
67 striking out subsection (a) and inserting in place thereof the following subsection:—

68 Section 7A. (a) The department shall establish and implement a pesticide use reporting
69 system for use by government agencies, researchers, policy makers and the public to ensure the
70 public health and safety and to protect the environment of the commonwealth. In establishing
71 and implementing the system, said department shall design, develop and implement the system
72 in order to collect, evaluate, summarize, retain and report information on the use of pesticides in
73 each major category of use in the commonwealth, including agriculture, forestry, industrial,
74 commercial and homeowner uses. Said department shall, at least one time each year, collect the

75 best data practicable from each major category of pesticide use. This shall include, but not be
76 limited to, sales data from pesticide retailers in the commonwealth and application data from
77 each individual licensed or certified pesticide applicator, including the location of the application
78 of the pesticide. Data shall be collected in a manner that will allow such data to be used for
79 public health purposes, including, but not limited to, epidemiological studies, and for
80 environmental protection purposes. Such data shall be collected in a manner which minimizes
81 reporting costs. Said department shall begin operation of the required statewide data reporting
82 program on or before January 31, 2009.

83 SECTION 12. Section 7A of chapter 132B of the General Laws, is hereby amended by
84 striking out, in line 40, "2001", and inserting in place thereof the following:- "2009."

85 SECTION 13. Section 7A of chapter 132B of the General Laws, is hereby amended by
86 striking out, in line 45, "2003", and inserting in place thereof the following:- "2009."

87 SECTION 14. Subsection (c) section 7A of chapter 132B of the General Laws, is hereby
88 amended by adding the following sentence:- Said department shall develop a consistent format
89 for data reporting for each major category or use and post said information on the web site.

90 SECTION 15: Chapter 132B of the General Laws is hereby amended by striking out
91 section 14 and inserting in place thereof the following section:—

92 Section 14. Any person who knowingly violates any provision of section 6 of this chapter
93 shall be punished by a fine of not less than one thousand dollars and not more than twenty-five
94 thousand dollars, or by imprisonment for not more than one year, or both such fine and
95 imprisonment, for each such violation, or shall be subject to a civil penalty not less than ten
96 thousand dollars and not to exceed twenty-five thousand dollars for each such violation, which

97 may be assessed in an action brought on behalf of the commonwealth in any court of competent
98 jurisdiction. Each day of violation shall constitute a separate offense.

99 Any person who violates any provision of sections 6A to 6K, inclusive, or section 7A,
100 who violates any regulation adopted under the provisions of this chapter, (a) shall be punished by
101 a fine of not more than one thousand dollars, or imprisonment for not more than six months, or
102 both such fine and imprisonment, for the second and each subsequent offense knowingly
103 committed, or (b), shall be subject to a civil penalty not to exceed ten thousand dollars for any
104 offense, which may be assessed in an action brought on behalf of the commonwealth in any court
105 of competent jurisdiction. Each day of violation shall constitute a separate offense.

106 Any person who violates any order issued under the provisions of this chapter, (a) shall
107 be punished by a fine of not less than one thousand dollars nor more than twenty-five thousand
108 dollars or imprisonment for not more than two years, or both such fine and imprisonment, for
109 each violation knowingly committed, or (b) shall be subject to a civil penalty not less than one
110 thousand dollars and not to exceed twenty-five thousand dollars for each violation, which may be
111 assessed in an action brought on behalf of the commonwealth in any court of competent
112 jurisdiction. Each day of violation shall constitute a separate offense.

113 The superior court shall have jurisdiction to enjoin violations of, or grant such relief as it
114 deems necessary or appropriate to secure compliance with, any provision of this chapter or the
115 terms of an order, license, certification, registration, permit or regulation issued or adopted
116 thereunder.