SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED SEPTEMBER 26, 2002

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SYNOPSIS
The "School Integrated Pest Management Act".

CURRENT VERSION OF TEXT
Substitute as adopted by the Senate Environment Committee.

(Sponsorship Updated As Of: 10/29/2002)
AN ACT concerning the implementation of integrated pest
management policies in public and private schools, and
supplementing Title 13 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. This act shall be known and may be cited as the "School
Integrated Pest Management Act."

2. The Legislature finds and declares that in 1992, the National
Parent Teacher Association passed a resolution calling for the reduced
use of pesticides in schools and calling on policy makers to consider
all possible alternatives before using any pesticides; that the National
Education Association and many national public interest organizations
have announced support for reducing or eliminating pesticide use in
schools; that the State, as well as 87 local government entities
throughout the State, have adopted integrated pest management
policies for their buildings and grounds; that childhood cancer is
continuing to increase at the alarming rate of one percent per year;
that the overall incidence of childhood cancer increased 10 percent
between 1974 and 1991, making cancer the leading cause of childhood
death from disease; and that approximately 4,800,000 children in the
United States under the age of 18 have asthma, the most common
chronic illness in children, and the incidence of asthma is on the rise.

The Legislature further finds and declares that children are more
susceptible to hazardous impacts from pesticides than are adults; that
numerous scientific studies have linked both cancer and asthma to
pesticide exposure; that the United States Environmental Protection
Agency has recommended the use of an integrated pest management
system by local educational agencies, which emphasizes nonchemical
ways of reducing pests, such as sanitation and maintenance; that
integrated pest management is an effective and environmentally
sensitive approach to pest management that relies on common sense
practices; that integrated pest management programs use current,
comprehensive information on the life cycles of pests and their
interaction with the environment, and that this information, in
combination with available pest control methods is used to manage
pest damage with the least hazard to people, property and the
environment and by economical means; and that integrated pest
management programs take advantage of all pest management options
possibly including, but not limited to, the judicious use of pesticides;
that a notification process should be established for schools under
which each student, parent, guardian, staff member, and teacher shall
be notified of a pesticide application; that parents and guardians have
a right to know that there is an integrated pest management system in
their children's schools; that an integrated pest management system
provides long-term health and economic benefits; and that parents and
 guardians should have a right to be notified in advance of any use of
a pesticide in their children's schools.

The Legislature therefore determines that it is in the public interest
of all of the people of New Jersey that the schools in this State
establish an integrated pest management policy.

3. As used in this act:
"Charter school" means a school established pursuant to P.L.1995,
c.426 (C.18A:36A-1 et seq.).
"Commissioner” means the Commissioner of Environmental
Protection.
"Department” means the Department of Environmental Protection.
"Integrated pest management coordinator” or "coordinator” means
an individual who is knowledgeable about integrated pest management
systems and has been designated by a local school board, the board of
trustees of a charter school, or the principal or chief administrator of
a private school, as appropriate, as the integrated pest management
coordinator pursuant to section 5 of this act.
"Low Impact Pesticide” means any pesticide or pesticidal active
ingredient alone, or in combination with inert ingredients, that the
United States Environmental Protection Agency has determined is not
of a character necessary to be regulated pursuant to the "Federal
and that has been exempted from the registration and reporting
requirements adopted pursuant to that act; any gel; paste; bait;
antimicrobial agent such as a disinfectant used as a cleaning product;
boric acid; disodium octoborate tetrahydrate; silica gels; diatomaceous
earth; microbe-based insecticides such as bacillus thuringiensis;
botanical insecticides, not including synthetic pyrethroids, without
toxic synergists; and biological, living control agents.
"Pesticide” means any substance or mixture of substances labeled,
designed, intended for or capable of use in preventing, destroying,
repelling, sterilizing or mitigating any insects, rodents, nematodes,
predatory animals, fungi, weeds and other forms of plant or animal life
or viruses, except viruses on or in living man or other animals.
"Pesticide” shall also include any substance or mixture of substances
labeled, designed or intended for use as a defoliant, desiccant or plant
regulator.
"School” means any public or private school as defined in
"School integrated pest management policy” means a managed
pest control policy that eliminates or mitigates economic, health, and
aesthetic damage caused by pests in schools; that delivers effective
pest management, reduces the volume of pesticides used to minimize
the potential hazards posed by pesticides to human health and the
environment in schools; that uses integrated methods, site or pest
inspections, pest population monitoring, an evaluation of the need for
pest control, and one or more pest control methods, including
sanitation, structural repair, mechanical and biological controls, other
nonchemical methods, and when nonchemical options are ineffective
or unreasonable, allows the use of a pesticide, with a preference
toward first considering the use of a low impact pesticide for schools.

"School pest emergency" means an urgent need to mitigate or
eliminate a pest that threatens the health or safety of a student or staff
member.

"School property" means any area inside and outside of the school
buildings controlled, managed, or owned by the school or school
district.

"Staff member" means an employee of a school or school district,
including administrators, teachers, and other persons regularly
employed by a school or school district, but shall not include an
employee hired by a school, school district or the State to apply a
pesticide or a person assisting in the application of a pesticide.

"Universal notification" means notice provided by a local school
board, a board of trustees of a charter school, or the principal or chief
administrator of a private school, as appropriate, to all parents or
guardians of children attending a school, and staff members of a school
or school district.

4. a. No later than 12 months after the effective date of this act,
the commissioner, in consultation with the Commissioner of
Education, the New Jersey School Boards Association, and the New
Jersey Cooperative Extension of Rutgers, The State University shall
develop a model school integrated pest management policy that is
based upon recommended integrated pest management plans for
schools disseminated by the United States Environmental Protection
Agency and that conforms to the rules adopted by the department
(C.13:1F-1 et seq.).

b. No later than 18 months after the effective date of this act, the
superintendent of the school district, for each school in the district, the
board of trustees of a charter school, and the principal or chief
administrator of a private school, shall adopt and implement a school
integrated pest management policy for the school property consistent
with the model policy developed pursuant to subsection a. of this
section and that complies with the provisions of this act.

5. a. Each local school board of a school district, each board of
trustees of a charter school, and each principal or chief administrator
of a private school, as appropriate, shall designate an integrated pest management coordinator to carry out the school integrated pest management policy required pursuant to section 4 of this act.

b. The integrated pest management coordinator for a school or school district shall:

(1) maintain information about the school or school district's school integrated pest management policy and about pesticide applications on the school property of the school or the schools within the school district;

(2) act as a contact for inquiries about the school integrated pest management policy; and

(3) maintain material safety data sheets, when available, and labels for all pesticides that are used on the school property of the school or of the schools in the school district.

6. a. The local school board of a school district, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall request from the pesticide applicator and shall maintain records of pesticide applications used on school property at each school or for each school in the school district for three years after the application, and for five years after the application of a pesticide designed to control termites, and on request, shall make the data available to the public for review.

b. Annually, each local school board, each board of trustees of a charter school, or each principal or chief administrator of a private school, as appropriate, shall include a notice of the school integrated pest management policy of the school or school district in school calendars or other forms of universal notification.

c. The notice shall include:

(1) the school integrated pest management policy of the school or school district;

(2) a list of any pesticide that is in use or that has been used in the last 12 months on school property;

(3) the name, address, and telephone number of the integrated pest management coordinator of the school or school district;

(4) a statement that: (a) the integrated pest management coordinator maintains the product label and material safety data sheet, when available, of each pesticide that may be used on school property; (b) the label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and (c) the integrated pest management coordinator is available to parents, guardians, and staff members for information and comment;

(5) the time and place of any meetings that will be held to adopt the school integrated pest management policy; and

(6) the following statement:
"As part of a school pest management plan, (insert school name) may use pesticides to control pests. The United States Environmental Protection Agency (EPA) and the New Jersey Department of Environmental Protection (DEP) register pesticides to determine that the use of a pesticide in accordance with instructions printed on the label does not pose an unreasonable risk to human health and the environment. Nevertheless, the EPA and DEP cannot guarantee that registered pesticides do not pose any risk to human health, thus unnecessary exposure to pesticides should be avoided. The EPA has issued the statement that where possible, persons who are potentially sensitive, such as pregnant women, infants and children, should avoid unnecessary pesticide exposure."

d. After the beginning of each school year, each local school board, each board of trustees of a charter school, or each principal or chief administrator of a private school, as appropriate, shall provide the notice required pursuant to subsection b. of this section to: (1) each new staff member who is employed during the school year; and (2) the parent or guardian of each new student enrolled during the school year.

7. a. If a local school board, board of trustees of a charter school or principal or chief administrator of a private school, as appropriate, determines that a pesticide, other than a low impact pesticide, must be used on school property, a pesticide may be used only in accordance with this section.

b. At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes:

(1) the common name, trade name, and federal Environmental Protection Agency registration number of the pesticide;

(2) a description of the location of the application of the pesticide;

(3) a description of the date and time of application, except that, in the case of outdoor pesticide applications, one notice shall include three dates, in chronological order, on which the outdoor pesticide applications may take place if the preceding date is canceled;

(4) a statement that The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: "Where possible, persons who potentially are sensitive, such as pregnant women, infants, and children, should avoid any unnecessary pesticide exposure";

(5) a description of potential adverse effects of the pesticide based on the material safety data sheet, if available, for the pesticide;
(6) a description of the reasons for the application of the pesticide;  
(7) the name and telephone number of the integrated pest management coordinator for the school or the school district; and  
(8) any additional label instruction and precautions related to public safety.

c. The local school board of a school district, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, may provide the notice required by subsection b. of this section by:

(1) written notice sent home with the student and provided to each staff member;  
(2) a telephone call;  
(3) direct contact;  
(4) written notice mailed at least one week before the application; or  
(5) electronic mail.

d. If the date of the application of the pesticide must be extended beyond the period required for notice under this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall issue the notice required under this section for the new date of application.

8. a. At least 72 hours before a pesticide, other than a low impact pesticide, is used on school property, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall post a sign that provides notice of the application of the pesticide (1) in a prominent place that is in or adjacent to the location to be treated; and (2) at each entrance to the building or school ground to be treated.

b. A sign required pursuant to subsection a. of this section for the application of a pesticide shall (1) remain posted for at least 72 hours after the end of the treatment; (2) be at least 8 ½ inches by 11 inches; and (3) state the same information as that required for prior notification of the pesticide application pursuant to section 7 of this act.

c. In the case of outdoor pesticide applications, each sign shall include three dates, in chronological order, on which the outdoor pesticide application may take place if the preceding date is canceled due to weather. A sign shall be posted after an outdoor pesticide application in accordance with subsection b. of this section.

d. The requirement imposed pursuant to this section shall be in addition to any requirements imposed pursuant to the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.), and any rules or regulations adopted pursuant thereto.
9. The provisions of sections 7 and 8 of this act shall apply if any person applies a pesticide, other than a low impact pesticide, on school property, including a custodian, staff member, or commercial applicator. These provisions shall apply to a school during the school year, and during holidays and the summer months, only if the school is in use by children during those periods. During those periods, notices shall be provided to all staff members and the parents or guardians of the students that are using the school in an authorized manner.

10. a. A pesticide, other than a low impact pesticide, may be applied on school property in response to an emergency, without complying with the provisions of sections 7 and 8 of this act, provided the requirements of subsection b. of this section are met.

b. Within 24 hours after the application of a pesticide pursuant to this section, or on the morning of the next school day, whichever is earlier, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall provide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes:

(1) the information required for a notice under section 7 of this act; (2) a description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and (3) if necessary, a description of the steps that will be taken in the future to avoid emergency application of a pesticide pursuant to this section.

c. The local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, may provide the notice required by subsection b. of this section by: (1) written notice sent home with the student and provided to the staff member; (2) a telephone call; (3) direct contact; or (4) electronic mail.

d. When a pesticide is applied pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall post a sign warning of the pesticide application at the time of the application of the pesticide, in accordance with the provisions of section 8 of this act.

e. If there is an application of a pesticide pursuant to this section, the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, shall modify the school integrated pest management policy of the school or school district if necessary, to minimize the future emergency applications of pesticides under this section.
11. a. A pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities prior to the time prescribed for re-entry to the application site by the United State Environmental Protection Agency on the pesticide label, except that if no specific numerical re-entry time is prescribed on a pesticide label, such a pesticide, other than a low impact pesticide, shall not be applied on school property where students are expected to be present for academic instruction or for organized extra-curricular activities within seven hours of the application.

b. A pesticide, other than a low impact pesticide, shall not be applied in a school building when students are present. Students may not be present in an untreated portion of a school building unless the area being treated with a pesticide, other than a low impact pesticide, is served by a separate ventilation system and is separated from the untreated area by smoke or fire doors.

c. A low impact pesticide may be applied in areas of a school building where students will not contact treated areas until sufficient time is allowed for the substance to dry or settle, or after the period of time prescribed for re-entry or for ventilation requirements on the pesticide label has elapsed.

d. This section shall not apply when pesticides are applied on school property for student instructional purposes or by public health officials during the normal course of their duties.

12. A commercial pesticide applicator shall not be liable to any person for damages resulting from the application of a pesticide at a school if the damages are solely due to the failure of the local school board, the board of trustees of a charter school, or the principal or chief administrator of a private school, as appropriate, to provide the notice required prior to the application of a pesticide pursuant to the provisions of sections 7, 8, 9, or 10 of P.L. , c. (C. ) (now in the Legislature as this bill).

13. The department shall develop and make available to commercial pesticide applicators a form which a commercial pesticide applicator may request an integrated pest management coordinator to sign prior to the application of a pesticide, other than a low impact pesticide, on school property. The form developed pursuant to this section shall set forth a certification by the integrated pest management coordinator that the notice and posting requirements for the application of a pesticide established pursuant to section 7 and section 8 of this act, or the posting requirement established pursuant to section 10 of this act, as appropriate, have been complied with. Upon being presented by a commercial pesticide applicator with a form pursuant to this section, the signature of the integrated pest
management coordinator shall be required as a condition for the application of the pesticide.

14. a. The Department of Environmental Protection may issue an administrative order against a local school board, the board of trustees of a charter school, or a principal or chief administrator of a private school that fails to adopt and implement a pesticide use and school integrated pest management policy in compliance with the provisions of this act. Upon identification of a violation of this act, the department shall issue a notice of violation by certified mail or personal service to the person responsible for the violation that identifies the violation and states that an administrative order may be issued requiring compliance with the act. Any notice of violation or administrative order shall (1) specify the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation; (2) cite the action that caused the violation; and (3) require compliance with the provision of this act or the rule or regulation adopted pursuant thereto of which the person is in violation. In addition, any administrative order issued pursuant to this section shall give notice to the person of his right to a hearing on the matters contained in the order. The person shall have 20 days from receipt of the order within which to deliver to the commissioner a written request for a hearing. Subsequent to the hearing and upon finding that a violation has occurred, the commissioner may issue a final order. If no hearing is requested, the order shall become a final order upon the expiration of the 20-day period.

b. The provisions of section 10 of P.L.1971, c.176 (C.13:1F-10) shall not apply to this act.

15. The commissioner shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules or regulations as are necessary to implement the provisions of sections this act.

16. This act shall take effect immediately.