

**Representative Scott H. Chew** proposes the following substitute bill:

**PEST CONTROL LICENSING AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott H. Chew**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Utah Pesticide Control Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies the requirements for obtaining a business registration certificate for a pesticide applicator business; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**4-14-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345

**4-14-111**, as renumbered and amended by Laws of Utah 2017, Chapter 345

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*Be it enacted by the Legislature of the state of Utah:*



26 Section 1. Section 4-14-102 is amended to read:

27 **4-14-102. Definitions.**

28 As used in this chapter:

29 (1) "Active ingredient" means an ingredient that:

30 (a) prevents, destroys, repels, controls, or mitigates pests; or

31 (b) acts as a plant regulator, defoliant, or desiccant.

32 (2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the  
33 standard of quality expressed on the label under which the pesticide is offered for sale.

34 (3) "Animal" means all vertebrate or invertebrate species.

35 (4) "Beneficial insect" means an insect that is:

36 (a) an effective pollinator of plants;

37 (b) a parasite or predator of pests; or

38 (c) otherwise beneficial.

39 (5) "Certified applicator" means an individual who is licensed by the department to  
40 apply:

41 (a) a restricted use pesticide; or

42 (b) a general use pesticide for hire or in exchange for compensation.

43 (6) "Certified qualified applicator" means a certified applicator who is eligible to act as  
44 a qualifying party.

45 [~~5~~] (7) "Defoliant" means a substance or mixture intended to cause leaves or foliage  
46 to drop from a plant, with or without causing abscission.

47 [~~6~~] (8) "Desiccant" means a substance or mixture intended to artificially accelerate  
48 the drying of plant or animal tissue.

49 [~~7~~] (9) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment,  
50 receive, deliver, or offer to deliver pesticides in this state.

51 [~~8~~] (10) "Environment" means all living plants and animals, water, air, land, and the  
52 interrelationships that exist between them.

53 [~~9~~] (11) (a) "Equipment" means any type of ground, water, or aerial equipment or  
54 contrivance using motorized, mechanical, or pressurized power to apply a pesticide.

55 (b) "Equipment" does not mean any pressurized hand-sized household apparatus used  
56 to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent

57 solely upon energy expelled by the person making the pesticide application.

58 ~~[(10)]~~ (12) "EPA" means the United States Environmental Protection Agency.

59 ~~[(11)]~~ (13) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

60 ~~[(12)]~~ (14) (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a  
61 nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust,  
62 smut, mildew, mold, yeast, and bacteria.

63 (b) "Fungus" does not include fungus existing on or in:

64 (i) a living person or other animal; or

65 (ii) processed food, beverages, or pharmaceuticals.

66 (15) "Herbicide" means a pesticide that is used to destroy weeds.

67 ~~[(13)]~~ (16) "Insect" means an invertebrate animal generally having a more or less  
68 obviously segmented body:

69 (a) usually belonging to the Class Insecta, comprising six-legged, usually winged  
70 forms, including beetles, bugs, bees, and flies; and

71 (b) allied classes of arthropods that are wingless usually having more than six legs,  
72 including spiders, mites, ticks, centipedes, and wood lice.

73 ~~[(14)]~~ (17) "Label" means any written, printed, or graphic matter on, or attached to, a  
74 pesticide or a container or wrapper of a pesticide.

75 ~~[(15)]~~ (18) (a) "Labeling" means all labels and all other written, printed, or graphic  
76 matter:

77 (i) accompanying a pesticide or equipment; or

78 (ii) to which reference is made on the label or in literature accompanying a pesticide or  
79 equipment.

80 (b) "Labeling" does not include any written, printed, or graphic matter created by the  
81 EPA, the United States Departments of Agriculture or Interior, the United States Department of  
82 Health, Education, and Welfare, state experimental stations, state agricultural colleges, and  
83 other federal or state institutions or agencies authorized by law to conduct research in the field  
84 of pesticides.

85 ~~[(16)]~~ (19) "Land" means land, water, air, and plants, animals, structures, buildings,  
86 contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile,  
87 including any used for transportation.

88            [~~(17)~~] (20) "Misbranded" means any label or labeling that is false or misleading or that  
89 does not strictly comport with the label and labeling requirements set forth in Section  
90 [4-14-104](#).

91            [~~(18)~~] (21) "Misuse" means use of any pesticide in a manner inconsistent with the  
92 pesticide's label or labeling.

93            [~~(19)~~] (22) "Nematode" means invertebrate animals of the Phylum Nematelminthes  
94 and Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike  
95 bodies covered with cuticle, also known as nemas or eelworms.

96            (23) "Ornamental and turf pest control" means pesticide application services to control  
97 ornamental and turf pests in the maintenance and protection of ornamental trees, shrubs,  
98 flowers, or turf.

99            [~~(20)~~] (24) (a) "Pest" means:

100            (i) any insect, rodent, nematode, fungus, weed; or

101            (ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other  
102 microorganism that is injurious to health or to the environment or that the department declares  
103 to be a pest.

104            (b) "Pest" does not include:

105            (i) viruses, bacteria, or other microorganisms on or in a living person or other living  
106 animal; or

107            (ii) protected wildlife species identified in Section [23-13-2](#) that are regulated by the  
108 Division of Wildlife Resources in accordance with Sections [23-14-1](#) through [23-14-3](#).

109            [~~(21)~~] (25) "Pesticide" means any:

110            (a) substance or mixture of substances, including a living organism, that is intended to  
111 prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug,  
112 fungus, weed, or other form of plant or animal life that is normally considered to be a pest or  
113 that the commissioner declares to be a pest;

114            (b) any substance or mixture of substances intended to be used as a plant regulator,  
115 defoliant, or desiccant;

116            (c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder,  
117 adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide  
118 to aid the pesticide's application or effect; and

119 (d) any other substance designated by the department by rule.

120 [~~(22)~~] (26) "Pesticide applicator" is a person who:

121 (a) applies or supervises the application of a pesticide; and

122 (b) is required by this chapter to have a license.

123 [~~(23)~~] (27) (a) "Pesticide applicator business" means an entity that:

124 (i) is authorized to do business in this state; and

125 (ii) offers pesticide application services.

126 (b) "Pesticide applicator business" does not include an individual licensed agricultural

127 applicator who may work for hire.

128 [~~(24)~~] (28) "Pesticide dealer" means any person who distributes restricted use

129 pesticides.

130 [~~(25)~~] (29) (a) "Plant regulator" means any substance or mixture intended, through

131 physiological action, to accelerate or retard the rate of growth or rate of maturation, or

132 otherwise alter the behavior of ornamental or crop plants.

133 (b) "Plant regulator" does not include plant nutrients, trace elements, nutritional

134 chemicals, plant inoculants, or soil amendments.

135 (30) "Qualifying party" means a certified qualified applicator who is:

136 (a) the owner or employee of a pesticide applicator business and who is registered with

137 the department as the individual responsible for ensuring the training, equipping, and

138 supervision of all pesticide applicators who work for the pesticide applicator business; or

139 (b) registered with the department as the individual responsible for ensuring the

140 training, equipping, and supervision of pesticide applicators for a school district.

141 [~~(26)~~] (31) "Restricted use pesticide" means:

142 (a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial

143 insects, animals, or land; or

144 (b) any pesticide or pesticide use restricted by the administrator of EPA or by the

145 commissioner.

146 (32) "Spot treatment" means the limited application of an herbicide to an area that is no

147 more than 5% of the potential treatment area or one-twentieth of an acre, whichever is smaller,

148 using equipment that is designed to contain no more than five gallons of mixture.

149 [~~(27)~~] (33) "Weed" means any plant that grows where not wanted.

150            [~~(28)~~] (34) "Wildlife" means all living things that are neither human, domesticated, nor  
151    pests.

152            Section 2. Section 4-14-111 is amended to read:

153            **4-14-111. Registration required for a pesticide business.**

154            (1) A pesticide applicator business shall register with the department by:

155            (a) submitting an application on a form provided by the department;

156            (b) paying the registration fee; and

157            (c) certifying that the business is in compliance with this chapter and departmental  
158    rules authorized by this chapter.

159            (2) (a) By following the procedures and requirements of Section 63J-1-504, the  
160    department shall establish a registration fee based on the number of pesticide applicators  
161    employed by the pesticide applicator business.

162            (b) (i) Notwithstanding Section 63J-1-504, the department shall deposit the fees as  
163    dedicated credits and may only use the fees to administer and enforce this chapter.

164            (ii) The Legislature may annually designate the revenue generated from the fee as  
165    nonlapsing in an appropriations act.

166            (3) The department shall issue a business registration certificate to a pesticide  
167    applicator business if the individual or entity:

168            (a) has complied with the requirements of this section;

169            (b) has shown evidence of competence in the pesticide profession and meets the  
170    certification requirements established by rule;

171            (c) provides evidence that the owner or qualifying party is a certified applicator;

172            (d) provides evidence that the owner or qualifying party:

173            (i) has been a certified applicator for at least two years out of the 10 years immediately  
174    before the date of the application for a business registration certificate is received by the  
175    department; or

176            (ii) holds an associate degree or higher in horticulture, agricultural sciences, biological  
177    sciences, or pest management;

178            [~~(e)~~] (e) demonstrates good character;

179            [~~(f)~~] (f) has no outstanding infractions and owes no money to the department; and

180            [~~(g)~~] (g) pays the licensing fee established by the department.

181 (4) A registration certificate expires on December 31 of the second calendar year after  
182 the calendar year in which the registration certificate is issued.

183 (5) (a) The department may suspend a registration certificate if the pesticide applicator  
184 business violates this chapter or any rules authorized by it.

185 (b) A pesticide applicator business whose registration certificate has been suspended  
186 may apply to the department for reinstatement of the registration certificate by demonstrating  
187 compliance with this chapter and rules authorized by this chapter.

188 (6) A pesticide applicator business shall:

189 (a) only employ a pesticide applicator who has received a license from the department,  
190 as required by Section 4-14-103; and

191 (b) ensure that all employees comply with this chapter and the rules authorized by this  
192 chapter.

193 (7) An individual or entity applying for a business registration certificate for a pesticide  
194 applicator business that provides landscape maintenance services does not have to meet the  
195 requirements of Subsection (3)(d) if the individual's or entity's sole use of pesticides is limited  
196 to:

197 (a) providing ornamental and turf pest control spot treatment services; and

198 (b) herbicides with labels that contain the signal word "caution" or "warning."