

1 AN ACT concerning pest control.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Structural Pest Control Act is amended by  
5 changing Section 21 as follows:

6 (225 ILCS 235/21) (from Ch. 111 1/2, par. 2221)

7 (Section scheduled to be repealed on January 1, 2007)

8 Sec. 21. Penalty}. Any person who violates this Act or  
9 any rule or regulation adopted by the Department, or who  
10 violates any determination or order of the Department under  
11 this Act shall be guilty of a Class A misdemeanor and shall  
12 be fined a sum not less than \$100. A person convicted of a  
13 second or subsequent violation is guilty of a Class 4 felony.

14 Each day's violation constitutes a separate offense. The  
15 State's Attorney of the county in which the violation  
16 occurred or the Attorney General shall bring such actions in  
17 the name of the people of the State of Illinois.

18 (Source: P.A. 82-725.)

19 Section 10. The Illinois Pesticide Act is amended by  
20 changing Sections 4 and 24 as follows:

21 (415 ILCS 60/4) (from Ch. 5, par. 804)

22 Sec. 4. Definitions. As used in this Act:

23 1. "Director" means Director of the Illinois Department  
24 of Agriculture or his authorized representative.

25 2. "Active Ingredient" means any ingredient which will  
26 prevent, destroy, repel, control or mitigate a pest or which  
27 will act as a plant regulator, defoliant or desiccant.

28 3. "Adulterated" shall apply to any pesticide if the  
29 strength or purity is not within the standard of quality

1 expressed on the labeling under which it is sold, distributed  
2 or used, including any substance which has been substituted  
3 wholly or in part for the pesticide as specified on the  
4 labeling under which it is sold, distributed or used, or if  
5 any valuable constituent of the pesticide has been wholly or  
6 in part abstracted.

7 4. "Agricultural Commodity" means produce of the land  
8 including but not limited to plants and plant parts,  
9 livestock and poultry and livestock or poultry products,  
10 seeds, sod, shrubs and other products of agricultural origin  
11 including the premises necessary to and used directly in  
12 agricultural production. Agricultural commodity also includes  
13 aquatic products as defined in the Aquaculture Development  
14 Act.

15 5. "Animal" means all vertebrate and invertebrate  
16 species including, but not limited to, man and other mammals,  
17 bird, fish, and shellfish.

18 6. "Beneficial Insects" means those insects which during  
19 their life cycle are effective pollinators of plants,  
20 predators of pests or are otherwise beneficial.

21 7. "Certified applicator".

22 A. "Certified applicator" means any individual who  
23 is certified under this Act to purchase, use, or  
24 supervise the use of pesticides which are classified for  
25 restricted use.

26 B. "Private applicator" means a certified  
27 applicator who purchases, uses, or supervises the use of  
28 any pesticide classified for restricted use, for the  
29 purpose of producing any agricultural commodity on  
30 property owned, rented, or otherwise controlled by him or  
31 his employer, or applied to other property if done  
32 without compensation other than trading of personal  
33 services between no more than 2 producers of agricultural  
34 commodities.

1           C. "Licensed Commercial Applicator" means a  
2 certified applicator, whether or not he is a private  
3 applicator with respect to some uses, who owns or manages  
4 a business that is engaged in applying pesticides,  
5 whether classified for general or restricted use, for  
6 hire. The term also applies to a certified applicator  
7 who uses or supervises the use of pesticides, whether  
8 classified for general or restricted use, for any purpose  
9 or on property of others excluding those specified by  
10 subparagraphs 7 (B), (D), (E) of Section 4 of this Act.

11           D. "Commercial Not For Hire Applicator" means a  
12 certified applicator who uses or supervises the use of  
13 pesticides classified for general or restricted use for  
14 any purpose on property of an employer when such activity  
15 is a requirement of the terms of employment and such  
16 application of pesticides under this certification is  
17 limited to property under the control of the employer  
18 only and includes, but is not limited to, the use or  
19 supervision of the use of pesticides in a greenhouse  
20 setting.

21           E. "Licensed Public Applicator" means a certified  
22 applicator who uses or supervises the use of pesticides  
23 classified for general or restricted use as an employee  
24 of a state agency, municipality, or other duly  
25 constituted governmental agency or unit.

26           8. "Defoliant" means any substance or combination of  
27 substances which cause leaves or foliage to drop from a plant  
28 with or without causing abscission.

29           9. "Desiccant" means any substance or combination of  
30 substances intended for artificially accelerating the drying  
31 of plant tissue.

32           10. "Device" means any instrument or contrivance, other  
33 than a firearm or equipment for application of pesticides  
34 when sold separately from pesticides, which is intended for

1 trapping, repelling, destroying, or mitigating any pest,  
2 other than bacteria, virus, or other microorganisms on or  
3 living in man or other living animals.

4 11. "Distribute" means offer or hold for sale, sell,  
5 barter, ship, deliver for shipment, receive and then deliver,  
6 or offer to deliver pesticides, within the State.

7 12. "Environment" includes water, air, land, and all  
8 plants and animals including man, living therein and the  
9 interrelationships which exist among these.

10 13. "Equipment" means any type of instruments and  
11 contrivances using motorized, mechanical or pressure power  
12 which is used to apply any pesticide, excluding pressurized  
13 hand-size household apparatus containing dilute ready to  
14 apply pesticide or used to apply household pesticides.

15 14. "FIFRA" means the "Federal Insecticide Fungicide  
16 Rodenticide Act", as amended.

17 15. "Fungi" means any non-chlorophyll bearing  
18 thallophytes, any non-chlorophyll bearing plant of a lower  
19 order than mosses or liverworts, as for example rust, smut,  
20 mildew, mold, yeast and bacteria, except those on or in  
21 living animals including man and those on or in processed  
22 foods, beverages or pharmaceuticals.

23 16. "Household Substance" means any pesticide  
24 customarily produced and distributed for use by individuals  
25 in or about the household.

26 17. "Imminent Hazard" means a situation which exists  
27 when continued use of a pesticide would likely result in  
28 unreasonable adverse effect on the environment or will  
29 involve unreasonable hazard to the survival of a species  
30 declared endangered by the U.S. Secretary of the Interior or  
31 to species declared to be protected by the Illinois  
32 Department of Natural Resources.

33 18. "Inert Ingredient" means an ingredient which is not  
34 an active ingredient.

1           19. "Ingredient Statement" means a statement of the name  
2           and percentage of each active ingredient together with the  
3           total percentage of inert ingredients in a pesticide and for  
4           pesticides containing arsenic in any form, the ingredient  
5           statement shall include percentage of total and water soluble  
6           arsenic, each calculated as elemental arsenic. In the case  
7           of spray adjuvants the ingredient statement need contain only  
8           the names of the functioning agents and the total percent of  
9           those constituents ineffective as spray adjuvants.

10          20. "Insect" means any of the numerous small  
11          invertebrate animals generally having the body more or less  
12          obviously segmented for the most part belonging to the class  
13          Insects, comprised of six-legged, usually winged forms, as  
14          for example beetles, caterpillars, and flies. This  
15          definition encompasses other allied classes of arthropods  
16          whose members are wingless and usually have more than 6 legs  
17          as for example spiders, mites, ticks, centipedes, and  
18          millipedes.

19          21. "Label" means the written, printed or graphic matter  
20          on or attached to the pesticide or device or any of its  
21          containers or wrappings.

22          22. "Labeling" means the label and all other written,  
23          printed or graphic matter: (a) on the pesticide or device or  
24          any of its containers or wrappings, (b) accompanying the  
25          pesticide or device or referring to it in any other media  
26          used to disseminate information to the public, (c) to which  
27          reference is made to the pesticide or device except when  
28          references are made to current official publications of the  
29          U. S. Environmental Protection Agency, Departments of  
30          Agriculture, Health, Education and Welfare or other Federal  
31          Government institutions, the state experiment station or  
32          colleges of agriculture or other similar state institution  
33          authorized to conduct research in the field of pesticides.

34          23. "Land" means all land and water area including

1     airspace, and all plants, animals, structures, buildings,  
2     contrivances, and machinery appurtenant thereto or situated  
3     thereon, fixed or mobile, including any used for  
4     transportation.

5             24. "Licensed Operator" means a person employed to apply  
6     pesticides to the lands of others under the direction of a  
7     "licensed commercial applicator" or a "licensed public  
8     applicator" or a "licensed commercial not-for-hire  
9     applicator".

10            25. "Nematode" means invertebrate animals of the phylum  
11     nemathelminthes and class nematoda, also referred to as nemas  
12     or eelworms, which are unsegmented roundworms with elongated  
13     fusiform or sac-like bodies covered with cuticle and  
14     inhabiting soil, water, plants or plant parts.

15            26. "Permit" means a written statement issued by the  
16     Director or his authorized agent, authorizing certain acts of  
17     pesticide purchase or of pesticide use or application on a  
18     interim basis prior to normal certification, registration, or  
19     licensing.

20            27. "Person" means any individual, partnership,  
21     association, fiduciary, corporation, or any organized group  
22     of persons whether incorporated or not.

23            28. "Pest" means (a) any insect, rodent, nematode,  
24     fungus, weed, or (b) any other form of terrestrial or aquatic  
25     plant or animal life or virus, bacteria, or other  
26     microorganism, excluding virus, bacteria, or other  
27     microorganism on or in living animals including man, which  
28     the Director declares to be a pest.

29            29. "Pesticide" means any substance or mixture of  
30     substances intended for preventing, destroying, repelling, or  
31     mitigating any pest or any substance or mixture of substances  
32     intended for use as a plant regulator, defoliant or  
33     desiccant.

34            30. "Pesticide Dealer" means any person who distributes

1 registered pesticides to the user.

2 31. "Plant Regulator" means any substance or mixture of  
3 substances intended through physiological action to affect  
4 the rate of growth or maturation or otherwise alter the  
5 behavior of ornamental or crop plants or the produce thereof.  
6 This does not include substances which are not intended as  
7 plant nutrient trace elements, nutritional chemicals, plant  
8 or seed inoculants or soil conditioners or amendments.

9 32. "Protect Health and Environment" means to guard  
10 against any unreasonable adverse effects on the environment.

11 33. "Registrant" means person who has registered any  
12 pesticide pursuant to the provision of FIFRA and this Act.

13 34. "Restricted Use Pesticide" means any pesticide with  
14 one or more of its uses classified as restricted by order of  
15 the Administrator of USEPA.

16 35. "SLN Registration" means registration of a pesticide  
17 for use under conditions of special local need as defined by  
18 FIFRA.

19 36. "State Restricted Pesticide Use" means any pesticide  
20 use which the Director determines, subsequent to public  
21 hearing, that an additional restriction for that use is  
22 needed to prevent unreasonable adverse effects.

23 37. "Structural Pest" means any pests which attack and  
24 destroy buildings and other structures or which attack  
25 clothing, stored food, commodities stored at food  
26 manufacturing and processing facilities or manufactured and  
27 processed goods.

28 38. "Unreasonable Adverse Effects on the Environment"  
29 means the unreasonable risk to the environment, including  
30 man, from the use of any pesticide, when taking into account  
31 accrued benefits of as well as the economic, social, and  
32 environmental costs of its use.

33 39. "USEPA" means United States Environmental Protection  
34 Agency.

1           40. "Use inconsistent with the label" means to use a  
2 pesticide in a manner not consistent with the label  
3 instruction, the definition adopted in FIFRA as interpreted  
4 by USEPA shall apply in Illinois.

5           41. "Weed" means any plant growing in a place where it  
6 is not wanted.

7           42. "Wildlife" means all living things, not human,  
8 domestic, or pests.

9           43. "Bulk pesticide" means any registered pesticide  
10 which is transported or held in an individual container in  
11 undivided quantities of greater than 55 U.S. gallons liquid  
12 measure or 100 pounds net dry weight.

13           44. "Bulk repackaging" means the transfer of a  
14 registered pesticide from one bulk container (containing  
15 undivided quantities of greater than 100 U.S. gallons liquid  
16 measure or 100 pounds net dry weight) to another bulk  
17 container (containing undivided quantities of greater than  
18 100 U.S. gallons liquid measure or 100 pounds net dry weight)  
19 in an unaltered state in preparation for sale or distribution  
20 to another person.

21           45. "Business" means any individual, partnership,  
22 corporation or association engaged in a business operation  
23 for the purpose of selling or distributing pesticides or  
24 providing the service of application of pesticides in this  
25 State.

26           46. "Facility" means any building or structure and all  
27 real property contiguous thereto, including all equipment  
28 fixed thereon used for the operation of the business.

29           47. "Chemigation" means the application of a pesticide  
30 through the systems or equipment employed for the primary  
31 purpose of irrigation of land and crops.

32           48. "Use" means any activity covered by the pesticide  
33 label including but not limited to application of pesticide,  
34 mixing and loading, storage of pesticides or pesticide



1 containers, disposal of pesticides and pesticide containers  
2 and reentry into treated sites or areas.

3 49. "Retailer" means a person who transfers ownership of  
4 or title to pesticides to a purchaser for use or consumption  
5 but not for resale in any form.

6 50. "Wholesaler" means a person who sells pesticides to  
7 a retailer.

8 (Source: P.A. 92-113, eff. 7-20-01.)

9 (415 ILCS 60/24) (from Ch. 5, par. 824)

10 Sec. 24. Criminal Penalties.

11 1. Any person violating any provisions of this Act or  
12 regulations adopted thereunder is shall-be guilty of a Class  
13 A misdemeanor with a fine of not less than \$5,000. A  
14 retailer convicted of a second or subsequent violation is  
15 guilty of a Class 4 felony.

16 2. A wholesaler violating any provisions of this Act or  
17 regulations adopted thereunder is guilty of a Class 4 felony.  
18 A wholesaler convicted of a second or subsequent violation is  
19 guilty of a Class 3 felony.

20 (Source: P.A. 85-177.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.