



APPLICATOR USE LAWS

A SIGNIFICANT tightening of pesticide use and application laws nationwide has taken place since our last report. (See WTT, April 1970, p. 10). In an effort to create order from disorder, state legislative bodies have been busy passing bills that more specifically define the generalities of existing laws or amending existing laws to a point that a new statute is born.

While it may be noted that this tightening has put more teeth in state administrative programs, the general impression obtained in reviewing state laws is that the Federal Environmental Pesticide Control Bill when passed will contain all the muscle through which the teeth derive their power.

However, states have not been standing idly by waiting for Federal legislation to take place. Most state administrators realize that the Federal Bill is designed around the commercial licensed applicator. The mandate will dictate certain requirements with which all states will have to comply.

Thus, there has been a flurry of activity to license commercial applicators. Additionally, all but two states now have pesticide registration laws. Often referred to as "economic poison laws" or "insecticide, fungicide and rodenticide acts," these laws regulate the production and marketing of pesticides by requiring compliance with registration and labeling criteria prior to interstate or intrastate shipment.

In many cases, use and application laws for the contract applicator are divided into three groups. One requires the examination and licensing of persons engaged in applying pesticides; another regulates persons in professions; and a third would prohibit or restrict the use of certain pesticides.

It is interesting to note that this latter category has received increasing attention by state control groups.

Like the movie industry, these groups have determined that certain pesticides should have an "X" rating or "restrictive use" rating. Thirty states currently either restrict, or have the authority to restrict, the sale and use of certain designated pesticides.

At presstime, only 12 states have no pesticide use and application law regulating the custom application of pesticides. Part of these 12 have established a permit system or require applicators to register with the state. Thirty-eight states require custom applicators to obtain licenses.

This report was prepared with the aid of the Division of Pesticide Community Studies, Office of Pesticides Programs, Environmental Protection Agency. The following is a state-by-state breakdown on the use and application laws for commercial applicators:

ALABAMA

First use and application law became effective January 1, 1972. It requires examination and licensing of persons who engage in the business of custom application of pesticides. A surety bond must be furnished and the Commissioner of Agriculture and Industry is authorized to prescribe rules and regulations governing materials and methods of application, discarding of pesticides or pesticide containers, keeping of records and other regulations. The act exempts governmental bodies, structural pest control operators and certain other control activities related to premises.

ALASKA

Under the new Department of Environmental Conservation, authorization is provided to license persons "engaged in the custom commercial or contract spray-

ing or application of pesticides and broadcast chemicals including the requirement of a surety bond and liability insurance for the licensee." Application of banned agricultural chemicals is prohibited.

ARKANSAS

Although the Arkansas Agricultural Application Service Act does not specify qualifications for licensing, the state plant board administers the act and sets standards for qualifications and application. Of perhaps more relevance to the "Green Industry" is the Arkansas Pest Control Law. It regulates tree surgery, spraying shade trees and shrubs, and termite and other structural pest control. Additionally, the Economic Poison Act has special restrictive regulations regarding the use and application of hormone-type herbicides.

ARIZONA

To obtain a license in this state an applicant must satisfy the Board of Pesticide Control as to character, qualifications, responsibility and good faith. Exemptions to having a license include airplane pilots on a temporary basis during emergencies, application of fertilizers or seeds, governmental bodies, weed control on railroads, highways, canals, or utility easements. Violations to the Arizona Pesticide Use and Application Act, the law governing pesticide use, constitute a misdemeanor subject to a fine of not less than \$100, nor more than \$1,000, or imprisonment of not over 90 days, or both fine and imprisonment.

CALIFORNIA

Use laws are applicable for nearly every conceivable type of pesticide application. The California Agricultural Code specifies aircraft operation regulation, agricultural pest control agents and pesticide dealers are subject to the state ordinances. Applicators and dealers must pay \$50 yearly for a license; pilots are charged \$25 (renewal \$15); and, agents are not charged a fee. In each case, however, a written examination is required.

California Assembly Bill No. 327, approved October 5, 1971 amends the economic poison law by adding a new paragraph making it unlawful ". . . for any person to store, transport, handle, or dispose of any economic poison, or any container which holds or has held such economic poison, except in compliance with rules and regulations of the director . . ."

In another bill approved on October 19, 1971 the Agricultural Code was amended by making it unlawful to act or offer to act as an agricultural pest control adviser without being licensed or without having registered as prescribed. It also required that the permit to use any pesticide for agricultural use be obtained from the county agricultural commissioner. Further it made it unlawful to sell or deliver any "restricted material" without a permit.

COLORADO

Be prepared for both an oral and written examination to get an applicator's license in this state. However, exemptions include applicators of fertilizer and soil conditioners, persons applying pesticides on their own or controlled property, occasional applicators working on adjacent property and structural pest control operators. One interesting note is that your license may be restricted to certain types of equipment or materials. A reexamination is also required each year.

CONNECTICUT

All matters relating to the preservation and protection of the air, water and other natural resources of the state have been delegated to a Department of Environmental Protection. This includes the application of pesticides. Custom ground application of pesticides or application of pesticides or fertilizers by aircraft can be accomplished only by licensed applicators. Tree experts are covered under the Tree Expert Law which requires licensing of persons who contract to improve the conditions of trees (including spraying to control insects or diseases).

DELAWARE

While a license per se is still not required in this state, House Bill No. 35, approved June 25, 1971, adopts a uniform pesticide registration law. The act authorizes the secretary of the department of agriculture to prohibit the sale of a restricted use pesticide to any person other than the holder of a valid use permit. The use permits are limited to the area, time, amount and rate of application, and related factors. Thus, in a sense, the use permit serves as a license to the applicator.

FLORIDA

According to the Florida Pesticide Law, application of non-restricted pesticides may be accomplished without a license. But, it is unlawful to sell or purchase a "restricted pesticide" without a valid license or permit. Further, to use or dispose of a restricted pesticide, except in a manner authorized by the permit and according to label directions, is also prohibited. The Pest Control Act, administered by the Florida State Board of Health, relates to control of pests in structures, lawns, ornamentals and nonagricultural environments. It would be good to become familiar with this Act.

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California Law Further Explained

Walter Bray, president-elect of the California Landscape Contractors Association reports that the state legislature continues to pass legislation to make it more difficult for licensed operators to make a living as contractors.

On July 1, 1973, license numbers will be required on all contracts, subcontracts, calls for bids, and various form of advertising. This bill was first introduced as SB-239. Governor Reagan has now signed the bill into law. It is incorporated into the Business and Professions Licensing Code as Section 7030.5.

The governor also has signed SB-1088 to pro-

hibit suppliers from selling their products or services to unlicensed operators. The crux of the legislation was to prevent the continued abuses by unlicensed individuals, who purchase their materials for illegal work at the same prices as legitimate contractors.

A third bill to become law 60 days after the legislature adjourns is SB-247. This Act will authorize stiffer penalties for unlicensed operators convicted for the second time of operating without a license. It will force district attorneys to take action against anyone who has prior conviction of operating without a license.

GEORGIA

House Bill No. 571, approved April 3, 1972, creates the Georgia Pesticide Use and Application Act regulating custom applicators who engage in the business of applying pesticide. No provision is made to license dealers in restricted use pesticides and state, municipal and other governmental agencies are exempt from licensing — but not necessarily the “permit” requirement — provisions of the act. The Bill becomes law January 1, 1973.

HAWAII

The latest Senate Bill, No. 13, approved May 19, 1972, repeals most of the existing state pesticide control laws. In their place is the Hawaii Pesticides Law, a four part act that makes it unlawful to apply any pesticide in excess of dosage or inconsistent with time or other limitations specified on the label, use or apply restricted pesticides unless the person is a certified pesticide applicator with a valid certificate issued pursuant to regulations. Also, the department of agriculture may issue regulations to establish limitations and conditions for the application of pesticides by aircraft, power rigs, mist blowers, and other equipment.

IDAHO

New provisions proposed in a number of senate and house bills approved in 1971 add new teeth to the Commercial Sprayers and/or Duster Law. At presstime, some of the proposed changes include: providing for division of licenses into classifications: separate testing for such classifications; that an additional fee not be required of persons wishing to be licensed in more than one classification; that nonresident applicants shall designate a resident agent for service of process; first offense shall be considered a petty misdemeanor; that operation as an unlicensed applicator shall be subject to

a forfeiture of \$50 each day of unlicensed operation, as a civil penalty; and, that pesticide applicators who sell pesticides as an integral part of their services shall be exempt from dealer licensing provisions.

ILLINOIS

A nonresident desiring to apply pesticides in this state must annually pass an examination. Residents engaged in custom application must be licensed by the Director of the department of agriculture. Exemptions include structural pest control operators, fumigators, governmental bodies, tree experts. The director may restrict licensee to the use of certain types of materials or equipment. Other relevant laws applying to custom applicators include: Tree Experts, an act requiring examination, licensing and regulation of persons who diagnose, recommend treatment, or provide care for ornamental or shade trees; and The Insect Pest and Plant Disease Act, primarily a nursery inspection and pest quarantine act.

INDIANA

A Pesticide Review Board is the newest addition to the Indiana Code. In an Act, effective since January 1, provisions are incorporated of both the uniform State insecticide, fungicide, and rodenticide act and the model use and application act. In defining the term “restricted use pesticide” the Board includes any pesticide “found and determined to be unduly hazardous to persons, pollinating insects, bees, animals, crops, wildlife, or lands, other than the pests it is intended to prevent, destroy, control, or mitigate.”

IOWA

A newly created Department of Environmental Quality with a commission on chemical technology (pesticides). Operating under the approved Pesticides Act of 1971, the commission represents an organizational restructuring of state control programs, including pesticide control. The Pesticides Act permits a nonresident aerial applicator who is licensed in his home state to operate in Iowa provided he works under the direct supervision of a person holding a valid Iowa aerial commercial applicators license, or if he acquires an Iowa aerial applicators license, posts bond in an amount determined by the secretary of agriculture, and registers with the Iowa Aeronautics Commission. The act adds provisions for reporting losses and investigating damages resulting from aerial application of pesticides. All custom applicators must be licensed.

KANSAS

Exempt from the current Kansas Pesticide Use Law are structural pest control operators, persons working on own premises or those of another in an exchange of work, shade tree and ornamental shrub work, and Government research personnel. Licensing is required for those who engage in the business of applying pesticides to the land of another. License fees are: pesticide business applicator, \$10; tree pest control operators, \$100 (pending); pesticide equipment operator, \$10; public equipment operator, \$10; business license, \$25; government agency registration, \$25; each unit of equipment, \$10. The pesticide Use Law was to become fully operative on January 1, 1972. At presstime, an amendment delays implementation until January 1, 1973.

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Non-Licensed States



Delaware: A permit is necessary for restricted use pesticides only.
Indiana: Statute requires aerial applicators to register with Aeronautics Commission.
Missouri: No applicator use law.
Nebraska: Statute requires aerial applicators to obtain certificates.
New Jersey: This state has a Pesticide Control Act, but the law does not necessarily require the licensing of custom applicators.
Pennsylvania: No applicator use law.
South Carolina: No applicator use law.
Texas: A herbicide use law requires applicators of herbicides to obtain a permit. Equipment must be inspected and licensed. Applicators license for other chemicals is not required.
Virginia: No applicator use law.
West Virginia: No applicator use law.
Wisconsin: No applicator use law.
Wyoming: Aerial applicators must be registered with the state.

environment" is defined so as to include "pesticide pollution."

KENTUCKY

To become effective January 1, 1973, the first Pesticide Use and Application permits the director of agriculture to issue a list of "restricted use pesticides." No provision is made to license dealers in restricted pesticides. Existing registration laws and the structural pest control law retain their current status. The Kentucky Department of Aeronautics KAV-5, "Aerial Applicators," a regulation, requires aerial applicators of agricultural chemicals to obtain a permit before engaging in the business of applying chemicals to crops, and requires certain bonding procedures.

LOUISIANA

Aircraft pilots and supervisors of ground equipment are required to pass a written examination before obtaining a permit to operate equipment in this state. License fees are: license, \$25; permits—examination, \$2; renewal, \$1; equipment inspection—airial, \$10, ground, \$10, hand, \$2. Licensing procedures under the Louisiana Horticulture Law grants a horticulture commission authority to license and regulate the practice of persons engaged in: entomology, plant pathology, tree surgery, horticulture, landscape architecture, landscape contractor, and ornamental plant spraying and dusting.

MAINE

Custom application of pesticides without a license is unlawful in this state. Licenses are issued for a calendar year. Licensing laws affecting arborists are covered by the Arborist Law. Further, a new section to the state pesticides control board law would make it unlawful "to apply pesticides to or in any river or stream or tributary thereof, or any great pond, without a permit from the board . . ."

MARYLAND

This is one of the few states where financial responsibility is detailed fully. A licensed custom ground applicator must carry public liability of \$20,000 for each person and \$40,000 for each occurrence. In addition, he must carry \$15,000 for each occurrence of property damage and \$30,000 aggregate for property damage. A licensed custom aerial applicator must have financial responsibility of \$50,000 public liability for each person, \$100,000 each occurrence and property damage coverage of \$50,000 each occurrence, \$100,000 aggregate. The same dollar figures apply to a pest control consultant, both ground and aerial. While licensing examinations are not specified in the Maryland Pesticide Applicators Law, a regulation of the state board of agriculture requires oral or written, or both be administered.

MASSACHUSETTS

Licenses are granted upon passing an examination and remain in force for a period of two years. Qualifications specify that an applicant must be 16 years of age or over and that two classes of licenses are established: operational and supervisory. Massachusetts has also established judicial procedures for preventing damage to the environment. The attorney general, as of July 18, is granted authority to "prevent or remedy damage to the environment . . ." and the term "damage to the

MICHIGAN

According to the Application of Economic Poisons, it is unlawful to operate pesticide equipment or apply pesticides commercially unless licensed by the director of agriculture. Exempt from this mandate are municipalities, road commissions, or state or Federal agencies. Although no written or oral examination is required, examination of the applicator form is made. An amendment to the Michigan Insecticide, Fungicide, and Rodenticide Act of 1949, approved August 12, 1971, would require restricted use pesticide dealers to obtain an annual license, (\$50,000 fee) after satisfying the director as to their ". . . knowledge of the laws and rules governing the use and sale of economic poisons and . . . responsibilities (as a dealer) . . ." In addition, it would require dealers to furnish the director a ". . . record of all sales of restricted use pesticides . . ." and to keep copies of such records for a period of 2 years.

MINNESOTA

The Minnesota Spraying and Dusting Law prohibits spraying or dusting for hire unless licensed by the commissioner of agriculture. Senate Bill No. 624, approved May 21, 1971, amends the Minnesota Economic Poisons and Devices Law by: requiring dealers in restricted use pesticides to obtain an annual calendar year license and to pay an application fee of \$20.00, and adding a new section relating to the handling, discarding, storing, and displaying of pesticides and authorizing the commissioner of agriculture to issue regulations governing such activities.

The act further amends the spraying and dusting law by requiring licensed aerial applicators to have passed an examination prepared by the department of aeronautics and administered by the department of agriculture; licensed applicators who apply pesticides in public waters to pass an exam prepared by the department of natural resources and administered by the department of agriculture. It also requires licensed applicators to carry identification cards and to present them upon request of the commissioner or a law enforcement officer. It would make it unlawful for any applicant or licensee to permit any judgment against him to remain unsatisfied for more than 30 days.

MISSISSIPPI

As amended, the Application of Hormone-type Herbicides by Aircraft law requires aerial applicators of herbicides to have additional licenses and keep certain records. Written examinations are required. All other applications of pesticides are administered under the Mississippi Pest Control Law, a licensing law, requiring application, examination, bond, record keeping, etc. (includes structural pest control operations).

MISSOURI

This state has no pesticide use and application law. The only other relevant law to the application of pesticides is the Missouri Economic Poison Law of 1955.