

Summary of the NYS Ban on Pesticide Use on School Grounds

Prepared by Jennifer Grant, NYS IPM Program, July 2010

In May 2010, a ban on pesticide use on school grounds was passed by the NYS legislature and signed into law by the governor. It is commonly called the "Child Safe Playing Fields Act", and affects public schools as well as child care facilities. The law amends both education law (section 409-k) and the social services law (section 399-g), and goes into effect in May 2011 for schools, and November 2010 for child care facilities. Along with specific exceptions to this ban that are cited in the text, the law allows for emergency pesticide applications if approved by the county department of health (or other body if no county DOH exists). The DEC, in consultation with SED, is developing guidance on pesticide alternatives to facilitate compliance. Following is the text as it amends both education and social services law.

§ 2. The **EDUCATION LAW** is amended by adding a new section 409-k to read as follows:

§ **409-k. Pesticide alternatives.**

1. For purposes of this section the following terms shall have the meanings set forth below:

(a) "**School**" shall mean any public school district or private or parochial school or board of cooperative educational services.

(b) "**Pesticide**" shall have the same meaning as set forth in subdivision thirty-five of section 33-0101 of the environmental conservation law, provided however that *it shall not include:*

(i) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136 (mm) and 136 q (h)(2);

(ii) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets;

(iii) the use of non-volatile insect or rodent bait in a tamper resistant container;

(iv) the application of a pesticide classified by the US EPA as an exempt material under 40 CFR Part 152.25;

(v) the use of boric acid and disodium octaborate tetrahydrate; or

(vi) the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.

2. No school shall apply pesticide to any playgrounds, turf, athletic or playing fields, except that an **emergency application** of a pesticide may be made as determined by the county health department or for a county not having a health department such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board.

§ 3. The **SOCIAL SERVICES** law is amended by adding a new section 390-g to read as follows:

§ **390-g. Pesticide alternatives.**

1. For purposes of this section the following terms shall have the meanings set forth below:

- (a) "**Day care**" shall apply to all child day care centers or head start day care centers, as defined in section three hundred ninety of this title.
- (b) "**Pesticide**" shall have the same meaning as set forth in subdivision thirty-five of section 33-0101 of the environmental conservation law, provided however that it shall not include:
 - (i) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136(mm) and 136q(h)(2);
 - (ii) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets;
 - (iii) the use of non-volatile insect or rodent bait in a tamper resistant container;
 - (iv) the application of a pesticide classified by the US EPA as an exempt material under 40 CFR Part 152.25;
 - (v) the use of boric acid and disodium octaborate tetrahydrate; or
 - (vi) the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.

2. No day care shall apply pesticide to any playgrounds, turf, athletic or playing fields, except that an **emergency application** of a pesticide may be made as determined by the county health department or for a county not having a health department such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board.

Active Ingredients Exempted Under 25(b) of the Federal Insecticide, Fungicide, & Rodenticide Act

* indicates exempt active ingredients that are also exempt from pesticide residue tolerance requirements

Castor oil (U.S.P. or equivalent)*	Linseed oil
Cedar oil	Malic acid
Cinnamon and cinnamon oil*	Mint and mint oil
Citric acid*	Peppermint and peppermint oil*
Citronella and Citronella oil	2-Phenethyl propionate (2-phenylethyl propionate)
Cloves and clove oil*	Potassium sorbate
Corn gluten meal*	Putrescent whole egg solids
Corn oil*	Rosemary and rosemary oil*
Cottonseed oil*	Sesame (includes ground sesame plant) and sesame oil*
Dried Blood	Sodium chloride (common salt) *
Eugenol	Sodium lauryl sulfate
Garlic and garlic oil*	Soybean oil
Geraniol*	Thyme and thyme oil*
Geranium oil	White pepper
Lauryl sulfate	Zinc metal strips (consisting solely of zinc metal and impurities)
Lemongrass oil	

http://www.epa.gov/opp00001/biopesticides/regtools/25b_list.htm - content