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An Act To Continue the Protection of Marine Waters and Organisms from the Risks Posed by the Applications of Pesticides

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the spraying of pesticides to curtail browntail moth populations begins in the spring; and

Whereas, action is needed to reduce the risk to marine organisms from pesticides used to curtail browntail moths; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1444, sub-§4, as corrected by RR 2005, c. 2, §15, is amended to read:

4. Limits on pesticide applications. Pesticide applications near coastal waters in Cumberland, Lincoln, Sagadahoc and York counties to control browntail moths must be in compliance with section 1445.

This subsection is repealed March 31, ~~2007~~2008.

Sec. 2. 22 MRSA §1445, first ¶, as enacted by PL 2005, c. 553, §2, is amended to read:

This section applies to the application of pesticides to control browntail moths in coastal areas. For the purposes of this section, "coastal areas" means land in Cumberland, Lincoln, Sagadahoc and York counties abutting coastal waters as defined in Title 12, section 6001, subsection 6, except that coastal areas extend inland up rivers and streams only as far as the first bridge.

Sec. 3. 22 MRSA §1445, sub-§2, ¶B, as enacted by PL 2005, c. 553, §2, is amended to read:

B. Applications may be performed only with a hydraulic hand-held spray gun or air-assisted sprayers.

Sec. 4. 22 MRSA §1445, sub-§2, ¶E is enacted to read:

E. Applications may be performed only when the wind is equal to or greater than 2 miles per hour and blowing away from marine waters.

Sec. 5. 22 MRSA §1445, sub-§4, as enacted by PL 2005, c. 553, §2, is amended to read:

4. Exemption. The prohibitions and restrictions in this section do not apply to biological pesticides ~~or~~, to the injection of pesticides directly into the soil or into shade and ornamental trees ~~or to~~ the application of pesticides by licensed commercial pesticide applicators using nonpowered equipment.

Sec. 6. 22 MRSA §1445, sub-§5, as enacted by PL 2005, c. 553, §2, is amended to read:

5. Repeal. This section is repealed March 31, ~~2007~~2008.

Sec. 7. Board of Pesticides Control; monitoring project; report. The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control shall monitor applications of pesticides using hand-held spray guns and air-assisted sprayers allowed under the Maine Revised Statutes, Title 22, section 1445, subsection 2 to control browntail moths in coastal areas. Monitoring must occur on selected sites where applications are allowed. The board, working cooperatively with the Department of Marine Resources, shall sample marine waters and sediments in coastal areas where pesticides are applied to control browntail moths.

The Board of Pesticides Control, in consultation with the Department of Marine Resources, shall analyze or have analyzed samples of marine water and sediment to detect the presence and amounts of diflubenzuron, permethrin, tau-fluvalinate or cyfluthrin in the samples. The board and the department shall present the results of the monitoring and sampling efforts to an environmental risk advisory committee and the Lobster Conservancy. The board shall report its findings and recommendations to the Joint Standing Committee on Agriculture, Conservation and Forestry by January 2, 2008.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill:

1. Allows application of pesticides by air-assisted sprayers to control browntail moths in the area between 50 and 250 feet of the mean high water mark;
2. Allows pesticides applications only when the wind is equal to or greater than 2 miles per hour and blowing away from marine waters;
3. Adds licensed commercial applicators using nonpowered equipment to other applications exempted from the restrictions and prohibitions in the Maine Revised Statutes, Title 22, section 1445;
4. Adds Lincoln County to the area to which the restrictions apply;
5. Requires the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control to continue monitoring of allowed spray applications and directs the board to work with the Department of Marine Resources on sampling and analysis of marine water and sediment;
6. Requires the Board of Pesticides Control to report to the Joint Standing Committee on Agriculture, Conservation and Forestry by January 2, 2008; and
7. Extends the repeal date one year to March 31, 2008.