

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 1132 - L.D. 1697

**An Act to Increase Penalties to Deter Violations of the Laws Regarding
Improper Pesticide Use**

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

Sec. 1. 7 MRSA §616-A, sub-§2, ¶A, as repealed and replaced by PL 2003, c. 452, Pt. B, §6 and affected by Pt. X, §2, is amended to read:

A. A person may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A. This paragraph does not apply to a private applicator as defined in Title 22, section 1471-C, subsection 22 or a private applicator of general use pesticides as defined in Title 22, section 1471-C, subsection 22-A. Except as provided in paragraph B, the following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$1,500 may be adjudged as follows.

(a) A fine of not more than \$10,000 may be adjudged except as provided in division (b).

(b) A fine of not more than \$50,000 may be adjudged for an unauthorized pesticide application in a case in which the preponderance of the evidence demonstrates that the person who violated this paragraph benefited substantially from the violation as determined by the board by routine technical rule as described in Title 5, chapter 375, subchapter 2-A. Clear and convincing evidence that only one person benefited substantially from an unauthorized pesticide application constitutes prima facie evidence that the person is responsible for the unauthorized pesticide application.

(2) A person who violates this paragraph and is subject to a fine under subparagraph (1), division (a) after having previously violated this paragraph and having been subject to a fine under subparagraph (1), division (a) within the previous 4-year period commits a civil violation for which a fine of not more than \$4,000 \$75,000 may be adjudged. A person who violates this paragraph and is subject to a fine under subparagraph (1), division (b) after having previously

violated this paragraph and having been subject to a fine under subparagraph (1), division (b) within the previous 4-year period commits a civil violation for which a fine of not more than \$150,000 may be adjudged.

Sec. 2. 7 MRSA §616-A, sub-§2, ¶B, as amended by PL 2011, c. 510, §1, is further amended to read:

B. A private applicator, as defined in Title 22, section 1471-C, subsection 22, and a private applicator of general use pesticides, as defined in Title 22, section 1471-C, subsection 22-A, may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A or a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than ~~\$500~~ \$1,000 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than ~~\$1,000~~ \$2,000 may be adjudged.

Sec. 3. Board of Pesticides Control to adopt rules. The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt routine technical rules as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to:

1. Establish a penalty schedule for violations of the laws and rules governing pesticides to create transparency for future penalties assessed;
2. Provide the means by which separate civil suits may be brought against the same violator of the laws and rules governing pesticides if pesticide migration through soil or bedrock occurs affecting more than one property;
3. Provide for the restoration of affected property and replacement of vegetation as penalties for violations of the laws and rules governing pesticides in addition to monetary penalties; and
4. Designate pesticides with the active ingredient tebuthiuron as state restricted use pesticides.