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Date: (Filing No. S-)

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STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 181,
L.D. 228, Bill, “An Act To Revise Notification Requirements for Pesticide Application”

Amend the amendment by striking out all of section 3 and inserting the following:

Sec. 3. Registry for notification of outdoor agricultural application of pesticides. The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control, referred to in this section as "the board," shall develop and maintain a registry of the properties of residents, lessees and property owners in the State who request that their properties be placed on a registry in order that the residents, lessees and owners receive advance notification of the outdoor agricultural application of pesticides by aircraft or air-carrier equipment. This registry must be the only registry or system used by the board to form the basis of a mandatory notification system for outdoor agricultural applications of pesticides by aerial or air-carrier equipment. The registry developed by the board must conform to the following requirements.

1. Development of registry. The board shall solicit participation in the registry through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. For a property to be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, the following information:

- A. The person's full name;
- B. The person's e-mail address if available, regularly used and acceptable for primary notification purposes;
- C. The person's telephone number to be used for a secondary notification only if an e-mail address is not available; and
- D. The physical location of the property being registered, including the street address or, if a street address is not available, longitude and latitude coordinates or another board-approved method of determining property location.

2. Fees; duration of inclusion; renewal; removal. Any resident, owner or lessee of property in the State is entitled to have that property placed on the registry. The board shall either require a fee of \$20 to initially register or implement another method designed

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1 to minimize arbitrary registration. An annual renewal registration fee may not be
2 charged. Registered property remains on the registry for a period of up to one year. A
3 registrant shall update or confirm the registrant's contact information annually with the
4 board. The effective period of the registry must be from March 1st to February 28th of
5 the following year. Individuals must submit their request for inclusion on the next
6 effective registry by December 31st. All submissions received after that date must be
7 included on the following year's registry. Individuals may notify the board at any time of
8 changes in their listed registry residence; however, changes to the registry do not take
9 effect until the following year's registry. An individual may not be considered officially
10 included on the registry unless the individual's name appears on the current effective
11 registry. The property of a registrant that has not updated or confirmed all of the
12 registrant's contact information by the date set by the board must be removed from the
13 registry.

14 **3. Obligation to provide information to persons on registry.** A certified
15 applicator intending to conduct an outdoor application of pesticides using aircraft or air-
16 carrier equipment shall access the registry to identify any person entitled to notification
17 and shall provide that person with notification or cause that person to be notified no later
18 than the day before and no earlier than 7 days before the day of the application. The
19 notification must include:

- 20 A. The date and approximate time of application;
- 21 B. The type of equipment to be used and the manner in which the pesticides will be
22 applied;
- 23 C. The brand names and the United States Environmental Protection Agency's
24 registration numbers for the pesticides to be used;
- 25 D. Contact information for the certified applicator or the applicator's agent; and
- 26 E. The location of the property that the certified applicator intends to spray.

27 Upon the request of a person receiving notification under this subsection, a certified
28 applicator or the applicator's agent shall provide the material safety data sheets for the
29 pesticides being used or copies of the pesticides labels. A certified applicator is not
30 required to postpone an application pending delivery of the requested information.

31 **4. Criteria requiring notification.** Pesticides applications meeting the following
32 criteria require notification to persons listed on the registry:

- 33 A. Agricultural pesticide applications using air-carrier application equipment within
34 500 feet of a property listed on the registry; and
- 35 B. Agricultural pesticide applications using aircraft application equipment within
36 1,000 feet of a property listed on the registry.

37 **5. Means of notification.** A certified applicator conducting or contracting for an
38 outdoor application of pesticides using aircraft or air-carrier equipment shall make a good
39 faith effort to notify or cause to be notified a person entitled to the information. The
40 certified applicator or agent must keep a record of the time and date of the notification.
41 The preferred method of notification is electronic mailing of board-approved notification
42 forms, if electronic mail is available, regularly used and acceptable for primary

1 notification purposes. If electronic mail is not available in a specific instance, acceptable
2 means of notification include:

- 3 A. Personal delivery of board-approved notification forms;
- 4 B. Telephone calls, either personal or automated; or
- 5 C. Other means determined acceptable by the board.

6 **6. Rulemaking.** The board shall adopt rules to implement this section. The rules
7 may provide additional means of identifying property registered and alternate means of
8 providing notification. Notwithstanding the Maine Revised Statutes, Title 7, section 610,
9 subsection 6, paragraph B, rules adopted under this subsection are routine technical rules
10 as defined in Title 5, chapter 375, subchapter 2-A.

11 **7. Development of mapping tool program.** The board, within existing resources
12 and in partnership with the Department of Administrative and Financial Services, Office
13 of Information Technology, Maine Office of GIS, shall develop a notification registry
14 mapping tool program based on ongoing collaborative programming by February 1, 2013.
15 The mapping tool program must include a geographic information system that, when
16 queried by the registrant or certified applicator, will be able to locate any registrant's
17 physical address within requested distance parameters of a given proposed application
18 area.

19 **Sec. 4. Board of Pesticides Control to amend rules.** The Department of
20 Agriculture, Food and Rural Resources, Board of Pesticides Control, referred to in this
21 section as "the board," shall:

22 **1. Notification.** Amend Rule Chapter 28, Section 2 to require notification to persons
23 listed on the Maine Pesticide Notification Registry of:

- 24 A. Nonagricultural pesticide applications within 250 feet of a property listed on the
25 registry;
- 26 B. Nonagricultural pesticide applications using air-carrier application equipment
27 within 500 feet of a property listed on the registry; and
- 28 C. Nonagricultural pesticide applications using aircraft application equipment within
29 1,000 feet of a property listed on the registry; and

30 **2. Registration.** Develop a method, other than the imposition of registration fees,
31 designed to minimize the likelihood of arbitrary registration on the Maine Pesticide
32 Notification Registry. The board may amend its rules to eliminate or reduce fees for
33 registration under the Maine Pesticide Notification Registry and instead implement the
34 alternative method.

35 Notwithstanding the Maine Revised Statutes, Title 7, section 610, subsection 6,
36 paragraph B, the amendment to Rule Chapter 28 under this section is routine technical
37 rulemaking as defined in Title 5, chapter 375, subchapter 2-A.'

38 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
39 or section number to read consecutively.

SUMMARY

This amendment requires the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control to develop and maintain a registry of the properties of residents, lessees and property owners in the State who request that their properties be placed on a registry in order that the residents, lessees and owners receive advance notification of the outdoor agricultural application of pesticides by aircraft or air-carrier equipment. It requires all registrants to update or confirm their contact information annually. The amendment requires that by February 1, 2013 the board, in cooperation with the Department of Administrative and Financial Services, Office of Information Technology, Maine Office of GIS, develop a notification registry mapping tool program that includes a geographic information system that, when queried by the registrant or certified applicator, will locate any registrant's physical address within requested distance parameters of a given proposed application area.

This amendment also requires the Board of Pesticides Control to amend its rules to require notification to persons listed on the Maine Pesticide Notification Registry of the following:

- A. Nonagricultural pesticide applications within 250 feet of a property listed on the registry;
- B. Nonagricultural pesticide applications using air-carrier application equipment within 500 feet of a property listed on the registry; and
- C. Nonagricultural pesticide applications using aircraft application equipment within 1,000 feet of a property listed on the registry.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: _____

(Senator SCHNEIDER)

COUNTY: Penobscot