

Testimony of Erik Rasmussen on LD. 1132

I am concerned about the unintended consequences of LD1132 as written. Particularly the wording “limited common elements or land within 50 ft of a unit”. The phrase 'or land' could be applied to private land.



Attached are two neighborhoods I service. Most of these properties do not have land that is not within 50 feet of the neighbors dwelling unit. With accessory dwelling units now mandated by law across the state, land dwelling density will increase. Many towns have only 10' setback requirements. My town has no setback requirements. I'm the chair of the planning board, I know.

I'm not going to talk about the economic hardship and logistical hardships involved in getting permission from abutters. I am going to address landowners rights. The right to have a grandparent or parent have their yards treated for ticks so the children can be outside in the summer time instead of inside on their electronic devices without getting infected by Lyme disease, Powassan, or Babesiosis. The right of a camp owner to protect their house from carpenter ants. There are many other examples, but it comes down to the right of people to protect their families and properties.

As for the abutters - current law already protects them. Board of Pesticide Control's Regulation 026 chapter 22, Section 4 B II, Standards for Unconsented, Off-Target Drift of Pesticides states that pesticide residue on an off target site greater than 1% of that on the target site shall be evidence of drift.

As for Condos, because safeguards already exist and the intent of the law is to prohibit owners rights to landscape from being prohibited, I feel 50 feet is excessive. Many condos are attached to the neighbors unit. My cousin, and avid gardener is in such a unit. This would prevent her from using pesticides in any part of her garden. We feel 10 feet would be fair to all parties, especially if LD1132 would include wording requiring hand powered application only within 50 feet of a condominium unit on joint or common owned land.

- II. **Prima Facie Evidence.** Pesticide residues in or on any off-target Sensitive Area Likely to Be Occupied resulting from off-target drift of pesticides from a nearby application that are 1% or greater of the residue in the target area are considered prima facie evidence that the application was not conducted in a manner to minimize drift to the maximum extent practicable. The Board shall review the site-specific application checklist completed by the applicator and other relevant information to determine if a violation has occurred. For purposes of this standard, the residue in the target area, and the residue in the Sensitive Area Likely to Be Occupied, may be adequately determined by evaluation of one or more soil, foliage or other samples, or by extrapolation or other appropriate techniques.
- III. **Standard of Harm.** An applicator may not apply a pesticide in a manner that results in:
- (i) Off-target pesticide residue detected in or on any nearby crop which violates EPA tolerances for that crop, as established under 40 CFR, Part 180.
 - (ii) Off-target pesticide residue detected in or on any nearby organic farm or garden which causes the agricultural products thereof to be excluded from organic sale in accordance with 7 CFR, Part 205, Section 205.671.
 - (iii) Off-target pesticide residue detected on any nearby persons or vehicles using public roads.
 - (iv) Documented human illness. For this standard to be met, the Board must receive verification from two physicians that an individual has experienced a negative health effect from exposure to an applied pesticide and that the effect is consistent with epidemiological documentation of human sensitivity to the applied pesticide.
 - (v) Off-target damage or injury to any organism.
- IV. **Enforcement Considerations.** The Board shall consider the particular circumstances of violations arising from Subsections 4(B)(I) and (III) in determining an appropriate response, including, but not limited to:
- (i) The standard of care exercised by the applicator;
 - (ii) The degree of harm or potential harm that resulted from or could have resulted from off-target drift from the application;
 - (iii) The risk (toxicity and exposure) of adverse effects from the pesticide applied.