

## OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Agriculture, Conservation and Forestry  
From: Karen S. Nadeau, Legislative Analyst  
Date: March 16, 2021  
Subj: **LD 316 An Act To Prohibit the Use of Chlorpyrifos**

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- This bill prohibits the use of pesticides containing chlorpyrifos as an active ingredient beginning January 1, 2022.
- From January 1, 2022 to December 31, 2022 the Board of Pesticides Control may grant a temporary permit authorizing a pesticides applicator licensed by the State to use or apply a pesticide containing chlorpyrifos as an active ingredient, as long as that licensed pesticides applicator possessed the pesticide in the State before January 1, 2022. The board is required to post on its publicly accessible website information on the temporary permits issued.

### TESTIMONY

**Proponents:** *Environment Maine; Conservation Law Foundation; Maine Organic Farmers and Gardeners Association; Written only: Maine Medical Association; Retired attorney; Resident of Liberty, Fayette, Waldoboro and Nobleboro*

- Chlorpyrifos is an organophosphate insecticide used for many food crops, mosquito control, Christmas trees and turf management. In Maine, chlorpyrifos is used primarily for broccoli and some other fruit and vegetable crops, Christmas trees and golf courses.
- Evidence demonstrating chlorpyrifos' harm to humans, and particularly to infants and children, is beyond debate. It has been linked to lung cancer, endocrine disruption and cardiovascular disease.
- Chlorpyrifos is particularly dangerous to pesticide applicators, farm workers and people living near areas where the pesticide is applied.
- In 2015, EPA announced its intention to ban all tolerances of chlorpyrifos; however, that plan was reversed in 2017.
- When the federal government fails to act, states begin taking matters into their own hands. HI banned chlorpyrifos June 2018; CA May 2019; NY ban all uses by 2021; MD banned all applications by December 31, 2020.
- Currently, EPA is considering re-registering chlorpyrifos as we speak. EPA has not met the substantial evidence of safety thresholds required for registration of chlorpyrifos under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and has not complies with duties under the Endangered Species Act (ESA).
- Without assurance that EPA will act, we urge Maine's Legislature to be proactive and pass this LD.

**Opponents:** *None; Written only: Corteva Agriscience and CropLife America*

- Chlorpyrifos is an effect pesticide applied across a broad spectrum of pests and is the only effective control option for some key pests.
- It is used for controlling root worms, boring insects, vegetable maggots and aphids.
- Chlorpyrifos is widely used in 47 states on over 60 crops from specialty to row crops.

- Farming/agriculture is Maine’s number 1 industry.
- EPA’s 2006 determination that there is a reasonable certainty of no harm from approved uses of chlorpyrifos on food crops will remain in effect until EPA completes ongoing periodic registration review of chlorpyrifos on or before October 2022 using valid and reliable scientific information.
- We encourage the committee to rely on the expertise of DACF which ensures safe and proper pesticide use in the state, recognize the EPA findings and continue to provide Maine farmers with the support and tools necessary to remain competitive and viable.

**NFNA: Board of Pesticides Control and Maine Potato Board**

- In recent legislative sessions, a number of bills have proposed a legislative solution for a specific pesticide policy issue instead of tasking the BPC with a more thorough analysis of the issue.
- The board’s structure, member experience and its required robust public input process make the board well-suited to address the directive in this bill.
- To date, the State of Maine has never banned a pesticide; however, a number of pesticides have been restricted, limited or prohibited from use to existing state regulations.
- Working with agricultural producers/industries to identify alternatives is necessary and may take considerable time.
- There is a need to identify metrics by which transition to lower risk alternatives can be measured.
- Ensuring that existing stocks are either used or disposed of properly may be difficult with the timeline identified.
- Board staff will need time to provide educational outreach to the applicator community.

**RELEVANT STATUTES/RULES:**

- Title 7 section 606 – Prohibited act (under the Maine Pesticide Control Act of 1975)
- Dept. Rule Chapter 40 – Maine Restricted and Limited Use Pesticides
- Dept. Rule Chapter 41 – Special Restrictions on Pesticide Use

EPA Actions and Regulatory History can be found at the following link:

<https://www.epa.gov/ingredients-used-pesticide-products/chlorpyrifos#actions>

Comment period Extended for Chlorpyrifos Draft Risk Assessments and Proposed Interim Decision information release can be found at the following link:

<https://www.epa.gov/pesticides/comment-period-extended-chlorpyrifos-draft-risk-assessments-and-proposed-interim-decision>

**PRELIMINARY FISCAL IMPACT STATEMENT:** *Not yet received.*