

HOUSE BILL NO. 359  
INTRODUCED BY G. GUTSCHE

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING CERTAIN RESTRICTIONS ON LOCAL ORDINANCES FOR PESTICIDE APPLICATION NOTIFICATION; REQUIRING THAT THE NAME OF ANY PESTICIDES THAT WERE APPLIED BE INCLUDED IN A SIGN POSTED PURSUANT TO A LOCAL PESTICIDE REGULATION; ALLOWING A UNIT OF LOCAL GOVERNMENT TO ADOPT AN ORDINANCE REGULATING THE USE OF PESTICIDES; PROVIDING THAT A UNIT OF LOCAL GOVERNMENT THAT ADOPTS AN ORDINANCE TO REGULATE THE USE OF PESTICIDES IS RESPONSIBLE FOR ENFORCEMENT; AMENDING SECTIONS 80-8-107 AND 80-8-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-8-107, MCA, is amended to read:

**"80-8-107. Notice -- public information.** (1) As used in this section, the following definitions apply:

(a) "Building operator" means the owner, the owner's agent, or the building manager of any public building or, in the case of a public building that is leased to a tenant who is responsible for the operation of the building, the tenant or the tenant's building manager.

(b) "Public building" means a building that is owned or leased by a public agency, as defined in 18-1-101, and that is open to the public, including but not limited to:

- (i) a building that is used for educational, office, or institutional purposes; or
- (ii) a library, museum, school, hospital, auditorium, dormitory, or university building.

(2) ~~The~~ Unless a more stringent notification procedure is adopted pursuant to 80-8-120, the building operator who for indoor treatment personally applies or who contracts for or orders the application of a pesticide, excluding an antimicrobial, a disinfectant, a sanitizer, a pest bait, paste, or gel, or other pesticide that is designated by the department pursuant to 80-8-212 for retail sale, shall post a notice at each access to the public building or, if only a room has been treated, at each access to the room in a manner that allows the notice to be read before entering the building or room. However, if a room from which a heating or air conditioning system draws air has been treated, the notice required by this section must be posted at each access to the public building. The notice must:

- (a) be permanently displayed if the pesticide is applied on a regular basis;

- (b) be posted at the time of the application if the pesticide is not applied on a regular basis;
- (c) contain the name of the pesticide applied; and
- (d) contain the phone number at which a person may obtain information, the label, and the material safety data sheet on the pesticide applied.

(3) The applicator or building operator may not remove a notice posted pursuant to this section until the pesticide is dry or the reentry interval stated on the pesticide label has expired, whichever is later.

(4) A building operator shall keep, for 2 years, records of the pesticide applications and the material safety data sheet for each pesticide.

~~(5) A local government may not adopt standards that are more stringent than the standards established in subsections (2) through (4).~~

~~(6)~~(5) Except as provided in Title 80, chapter 15, the department may, alone or in cooperation with other state or federal agencies, publish information regarding aspects of the use and application sections or registration sections of this chapter. This information cannot disclose operations of selling, production, or use of pesticides by any person."

**Section 2.** Section 80-8-120, MCA, is amended to read:

**"80-8-120. Local pesticide regulation.** (1) (a) A unit of local government may adopt an ordinance to require a commercial applicator, as defined in 80-8-102, to provide notification when applying a pesticide, ~~subject to.~~ The local ordinance must, at a minimum, contain the following provisions:

(i) The applicator shall post a sign or signs at the time of the pesticide application or provide notification as provided for in subsection (1)(a)(v). The applicator, property owner, or property manager may not remove a sign until the pesticide is dry or the reentry interval on the pesticide label has expired, whichever is later.

(ii) A sign must be:

- (A) at least 4 inches in height and 5 inches in width; and
- (B) made of weather-resistant material if used for outdoor application.

(iii) A sign must contain:

- (A) the words "pesticide application"; ~~and~~
- (B) the name of each pesticide that was applied; and

(C) the telephone number of the applicator, property owner, or property manager who can supply further information about the pesticide.

(iv) A sign must be posted:

(A) at a point clearly visible from each street or road frontage of the property so that the warning is conspicuous from the public right-of-way;

(B) for an interior application, at each public access to the treated property with the front of the sign facing the access;

(C) for a golf course, at a conspicuous place in the clubhouse or pro shop or at the first and tenth tees.

(v) Notification for an application by a mosquito control district or a weed management district must be provided in a local newspaper or on local radio or television stating that the property will be treated and providing the telephone number of an individual who can supply further information on the pesticide applications. Notification under this subsection (1)(a)(v) must be made annually in the spring and periodically during the pesticide application season.

(vi) Posting or notification is not required for the following:

(A) a spot treatment of an area that is less than 100 square feet;

(B) an applicator subject to the environmental protection agency's worker protection standards as published in 40 CFR, part 156, subpart K, and 40 CFR, part 170;

(C) an application on land classified as agricultural land or forest land for taxation purposes;

(D) an application on an irrigation conveyance facility or land or on an irrigation ditch easement or right-of-way;

(E) an application of a pesticide that is a minimum risk pesticide as published by the environmental protection agency in 40 CFR 152.25(g)(1) or a sanitizer, a disinfectant, or a microbial registered with the environmental protection agency;

(F) an application on a railroad facility or right-of-way;

(G) an application on a public utility facility or right-of-way.

(b) A unit of local government that adopts a notification ordinance pursuant to this section shall:

(i) notify the department that it is adopting the ordinance on pesticide notification as provided in this section and provide the department a final copy for the department's register provided for in subsection (4); and

(ii) fund the costs, including but not limited to:

(A) educating its citizens of the ordinance's requirements;

(B) compensating personnel to enforce the ordinance; and

(C) prosecution of a violation of the ordinance.

(c) A unit of local government may not adopt a notification ordinance under this section that imposes additional fee requirements on a commercial applicator.

(2) The department may enter into a cooperative agreement with a unit of local government for the administration and enforcement of local rules adopted under 80-8-105(3)(a).

(3) Except as provided in subsections (1) and (2), a unit of local government may not regulate or prohibit the registration, labeling, distribution, ~~use,~~ or sale of pesticides ~~or enact notification provisions more stringent than those provided for in subsections (1) and (2).~~ It is not the intent of this subsection to prevent local responsibilities for zoning, fire codes, or disposal of pesticides pursuant to Title 75, chapter 10, part 4.

(4) The department shall maintain and, upon request, distribute a register of ordinances adopted by local governing bodies pursuant to subsection (1).

(5) A unit of local government that adopts an ordinance for the purpose of regulating pesticides is responsible for enforcement of that ordinance."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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