

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 137

STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED SEPTEMBER 26, 2002

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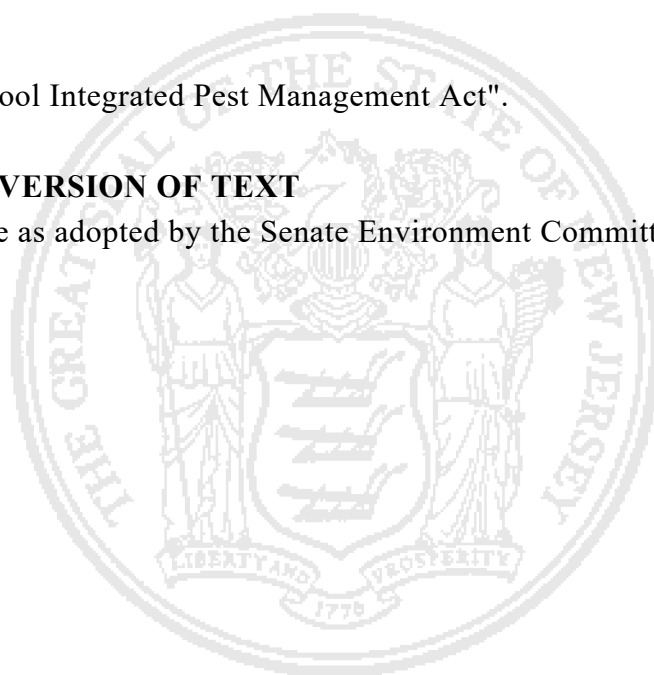
Assemblywoman Greenstein, Assemblymen Gusciora and Van Drew

SYNOPSIS

The "School Integrated Pest Management Act".

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment Committee.



(Sponsorship Updated As Of: 10/29/2002)

1 AN ACT concerning the implementation of integrated pest
2 management policies in public and private schools, and
3 supplementing Title 13 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "School
9 Integrated Pest Management Act."

10
11 2. The Legislature finds and declares that in 1992, the National
12 Parent Teacher Association passed a resolution calling for the reduced
13 use of pesticides in schools and calling on policy makers to consider
14 all possible alternatives before using any pesticides; that the National
15 Education Association and many national public interest organizations
16 have announced support for reducing or eliminating pesticide use in
17 schools; that the State, as well as 87 local government entities
18 throughout the State, have adopted integrated pest management
19 policies for their buildings and grounds; that childhood cancer is
20 continuing to increase at the alarming rate of one percent per year;
21 that the overall incidence of childhood cancer increased 10 percent
22 between 1974 and 1991, making cancer the leading cause of childhood
23 death from disease; and that approximately 4,800,000 children in the
24 United States under the age of 18 have asthma, the most common
25 chronic illness in children, and the incidence of asthma is on the rise.

26 The Legislature further finds and declares that children are more
27 susceptible to hazardous impacts from pesticides than are adults; that
28 numerous scientific studies have linked both cancer and asthma to
29 pesticide exposure; that the United States Environmental Protection
30 Agency has recommended the use of an integrated pest management
31 system by local educational agencies, which emphasizes nonchemical
32 ways of reducing pests, such as sanitation and maintenance; that
33 integrated pest management is an effective and environmentally
34 sensitive approach to pest management that relies on common sense
35 practices; that integrated pest management programs use current,
36 comprehensive information on the life cycles of pests and their
37 interaction with the environment, and that this information, in
38 combination with available pest control methods is used to manage
39 pest damage with the least hazard to people, property and the
40 environment and by economical means; and that integrated pest
41 management programs take advantage of all pest management options
42 possibly including, but not limited to, the judicious use of pesticides;
43 that a notification process should be established for schools under
44 which each student, parent, guardian, staff member, and teacher shall
45 be notified of a pesticide application; that parents and guardians have

1 a right to know that there is an integrated pest management system in
2 their children's schools; that an integrated pest management system
3 provides long-term health and economic benefits; and that parents and
4 guardians should have a right to be notified in advance of any use of
5 a pesticide in their children's schools.

6 The Legislature therefore determines that it is in the public interest
7 of all of the people of New Jersey that the schools in this State
8 establish an integrated pest management policy.

9
10 3. As used in this act:

11 "Charter school" means a school established pursuant to P.L.1995,
12 c.426 (C.18A:36A-1 et seq.).

13 "Commissioner" means the Commissioner of Environmental
14 Protection.

15 "Department" means the Department of Environmental Protection.

16 "Integrated pest management coordinator" or "coordinator" means
17 an individual who is knowledgeable about integrated pest management
18 systems and has been designated by a local school board, the board of
19 trustees of a charter school, or the principal or chief administrator of
20 a private school, as appropriate, as the integrated pest management
21 coordinator pursuant to section 5 of this act.

22 "Low Impact Pesticide" means any pesticide or pesticidal active
23 ingredient alone, or in combination with inert ingredients, that the
24 United States Environmental Protection Agency has determined is not
25 of a character necessary to be regulated pursuant to the "Federal
26 Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.
27 and that has been exempted from the registration and reporting
28 requirements adopted pursuant to that act; any gel; paste; bait;
29 antimicrobial agent such as a disinfectant used as a cleaning product;
30 boric acid; disodium octoborate tetrahydrate; silica gels; diatomaceous
31 earth; microbe-based insecticides such as bacillus thuringiensis;
32 botanical insecticides, not including synthetic pyrethroids, without
33 toxic synergists; and biological, living control agents.

34 "Pesticide" means any substance or mixture of substances labeled,
35 designed, intended for or capable of use in preventing, destroying,
36 repelling, sterilizing or mitigating any insects, rodents, nematodes,
37 predatory animals, fungi, weeds and other forms of plant or animal life
38 or viruses, except viruses on or in living man or other animals.
39 "Pesticide" shall also include any substance or mixture of substances
40 labeled, designed or intended for use as a defoliant, desiccant or plant
41 regulator.

42 "School" means any public or private school as defined in
43 N.J.S.18A:1-1.

44 "School integrated pest management policy" means a managed
45 pest control policy that eliminates or mitigates economic, health, and
46 aesthetic damage caused by pests in schools; that delivers effective

1 pest management, reduces the volume of pesticides used to minimize
2 the potential hazards posed by pesticides to human health and the
3 environment in schools; that uses integrated methods, site or pest
4 inspections, pest population monitoring, an evaluation of the need for
5 pest control, and one or more pest control methods, including
6 sanitation, structural repair, mechanical and biological controls, other
7 nonchemical methods, and when nonchemical options are ineffective
8 or unreasonable, allows the use of a pesticide, with a preference
9 toward first considering the use of a low impact pesticide for schools.

10 "School pest emergency" means an urgent need to mitigate or
11 eliminate a pest that threatens the health or safety of a student or staff
12 member.

13 "School property" means any area inside and outside of the school
14 buildings controlled, managed, or owned by the school or school
15 district.

16 "Staff member" means an employee of a school or school district,
17 including administrators, teachers, and other persons regularly
18 employed by a school or school district, but shall not include an
19 employee hired by a school, school district or the State to apply a
20 pesticide or a person assisting in the application of a pesticide.

21 "Universal notification" means notice provided by a local school
22 board, a board of trustees of a charter school, or the principal or chief
23 administrator of a private school, as appropriate, to all parents or
24 guardians of children attending a school, and staff members of a school
25 or school district.

26

27 4. a. No later than 12 months after the effective date of this act,
28 the commissioner, in consultation with the Commissioner of
29 Education, the New Jersey School Boards Association, and the New
30 Jersey Cooperative Extension of Rutgers, The State University shall
31 develop a model school integrated pest management policy that is
32 based upon recommended integrated pest management plans for
33 schools disseminated by the United States Environmental Protection
34 Agency and that conforms to the rules adopted by the department
35 pursuant to the "Pesticide Control Act of 1971," P.L.1971, c.176
36 (C.13:1F-1 et seq.).

37 b. No later than 18 months after the effective date of this act, the
38 superintendent of the school district, for each school in the district, the
39 board of trustees of a charter school, and the principal or chief
40 administrator of a private school, shall adopt and implement a school
41 integrated pest management policy for the school property consistent
42 with the model policy developed pursuant to subsection a. of this
43 section and that complies with the provisions of this act.

44

45 5. a. Each local school board of a school district, each board of
46 trustees of a charter school, and each principal or chief administrator

1 of a private school, as appropriate, shall designate an integrated pest
2 management coordinator to carry out the school integrated pest
3 management policy required pursuant to section 4 of this act.

4 b. The integrated pest management coordinator for a school or
5 school district shall:

6 (1) maintain information about the school or school district's
7 school integrated pest management policy and about pesticide
8 applications on the school property of the school or the schools within
9 the school district;

10 (2) act as a contact for inquiries about the school integrated pest
11 management policy; and

12 (3) maintain material safety data sheets, when available, and labels
13 for all pesticides that are used on the school property of the school or
14 of the schools in the school district.

15

16 6. a. The local school board of a school district, the board of
17 trustees of a charter school, or the principal or chief administrator of
18 a private school, as appropriate, shall request from the pesticide
19 applicator and shall maintain records of pesticide applications used on
20 school property at each school or for each school in the school district
21 for three years after the application, and for five years after the
22 application of a pesticide designed to control termites, and on request,
23 shall make the data available to the public for review.

24 b. Annually, each local school board, each board of trustees of a
25 charter school, or each principal or chief administrator of a private
26 school, as appropriate, shall include a notice of the school integrated
27 pest management policy of the school or school district in school
28 calendars or other forms of universal notification.

29 c. The notice shall include:

30 (1) the school integrated pest management policy of the school or
31 school district;

32 (2) a list of any pesticide that is in use or that has been used in the
33 last 12 months on school property;

34 (3) the name, address, and telephone number of the integrated pest
35 management coordinator of the school or school district;

36 (4) a statement that: (a) the integrated pest management
37 coordinator maintains the product label and material safety data sheet,
38 when available, of each pesticide that may be used on school property;

39 (b) the label and data sheet is available for review by a parent,
40 guardian, staff member, or student attending the school; and (c) the
41 integrated pest management coordinator is available to parents,
42 guardians, and staff members for information and comment;

43 (5) the time and place of any meetings that will be held to adopt
44 the school integrated pest management policy; and

45 (6) the following statement:

1 "As part of a school pest management plan, (insert school name)
2 may use pesticides to control pests. The United States Environmental
3 Protection Agency (EPA) and the New Jersey Department of
4 Environmental Protection (DEP) register pesticides to determine that
5 the use of a pesticide in accordance with instructions printed on the
6 label does not pose an unreasonable risk to human health and the
7 environment. Nevertheless, the EPA and DEP cannot guarantee that
8 registered pesticides do not pose any risk to human health, thus
9 unnecessary exposure to pesticides should be avoided. The EPA has
10 issued the statement that where possible, persons who are potentially
11 sensitive, such as pregnant women, infants and children, should avoid
12 unnecessary pesticide exposure."

13 d. After the beginning of each school year, each local school
14 board, each board of trustees of a charter school, or each principal or
15 chief administrator of a private school, as appropriate, shall provide
16 the notice required pursuant to subsection b. of this section to: (1)
17 each new staff member who is employed during the school year; and
18 (2) the parent or guardian of each new student enrolled during the
19 school year.

20

21 7. a. If a local school board, board of trustees of a charter school
22 or principal or chief administrator of a private school, as appropriate,
23 determines that a pesticide, other than a low impact pesticide, must be
24 used on school property, a pesticide may be used only in accordance
25 with this section.

26 b. At least 72 hours before a pesticide, other than a low impact
27 pesticide, is used on school property, the local school board, the board
28 of trustees of a charter school, or the principal or chief administrator
29 of a private school, as appropriate, shall provide to a parent or
30 guardian of each student enrolled at the school and each staff member
31 of the school, notice that includes:

32 (1) the common name, trade name, and federal Environmental
33 Protection Agency registration number of the pesticide;

34 (2) a description of the location of the application of the pesticide;

35 (3) a description of the date and time of application, except that,
36 in the case of outdoor pesticide applications, one notice shall include
37 three dates, in chronological order, on which the outdoor pesticide
38 applications may take place if the preceding date is canceled;

39 (4) a statement that The Office of Pesticide Programs of the
40 United States Environmental Protection Agency has stated: "Where
41 possible, persons who potentially are sensitive, such as pregnant
42 women, infants, and children, should avoid any unnecessary pesticide
43 exposure";

44 (5) a description of potential adverse effects of the pesticide based
45 on the material safety data sheet, if available, for the pesticide;

1 (6) a description of the reasons for the application of the pesticide;

2 (7) the name and telephone number of the integrated pest
3 management coordinator for the school or the school district; and

4 (8) any additional label instruction and precautions related to
5 public safety.

6 c. The local school board of a school district, the board of trustees
7 of a charter school, or the principal or chief administrator of a private
8 school, as appropriate, may provide the notice required by subsection
9 b. of this section by:

10 (1) written notice sent home with the student and provided to each
11 staff member;

12 (2) a telephone call;

13 (3) direct contact;

14 (4) written notice mailed at least one week before the application;

15 or

16 (5) electronic mail.

17 d. If the date of the application of the pesticide must be extended
18 beyond the period required for notice under this section, the local
19 school board, the board of trustees of a charter school, or the principal
20 or chief administrator of a private school, as appropriate, shall reissue
21 the notice required under this section for the new date of application.

22

23 8. a. At least 72 hours before a pesticide, other than a low impact
24 pesticide, is used on school property, the local school board, the board
25 of trustees of a charter school, or the principal or chief administrator
26 of a private school, as appropriate, shall post a sign that provides
27 notice of the application of the pesticide (1) in a prominent place that
28 is in or adjacent to the location to be treated; and (2) at each entrance
29 to the building or school ground to be treated.

30 b. A sign required pursuant to subsection a. of this section for the
31 application of a pesticide shall (1) remain posted for at least 72 hours
32 after the end of the treatment; (2) be at least 8 ½ inches by 11 inches;
33 and (3) state the same information as that required for prior
34 notification of the pesticide application pursuant to section 7 of this
35 act.

36 c. In the case of outdoor pesticide applications, each sign shall
37 include three dates, in chronological order, on which the outdoor
38 pesticide application may take place if the preceding date is canceled
39 due to weather. A sign shall be posted after an outdoor pesticide
40 application in accordance with subsection b. of this section.

41 d. The requirement imposed pursuant to this section shall be in
42 addition to any requirements imposed pursuant to the "Pesticide
43 Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.), and any
44 rules or regulations adopted pursuant thereto.

1 9. The provisions of sections 7 and 8 of this act shall apply if any
2 person applies a pesticide, other than a low impact pesticide, on school
3 property, including a custodian, staff member, or commercial
4 applicator. These provisions shall apply to a school during the school
5 year, and during holidays and the summer months, only if the school
6 is in use by children during those periods. During those periods,
7 notices shall be provided to all staff members and the parents or
8 guardians of the students that are using the school in an authorized
9 manner.

10
11 10. a. A pesticide, other than a low impact pesticide, may be
12 applied on school property in response to an emergency, without
13 complying with the provisions of sections 7 and 8 of this act, provided
14 the requirements of subsection b. of this section are met.

15 b. Within 24 hours after the application of a pesticide pursuant to
16 this section, or on the morning of the next school day, whichever is
17 earlier, the local school board, the board of trustees of a charter
18 school, or the principal or chief administrator of a private school, as
19 appropriate, shall provide to each parent or guardian of a student
20 enrolled at the school, and staff member of the school, notice of the
21 application of the pesticide for emergency pest control that includes:
22 (1) the information required for a notice under section 7 of this act; (2)
23 a description of the problem and the factors that qualified the problem
24 as an emergency that threatened the health or safety of a student or
25 staff member; and (3) if necessary, a description of the steps that will
26 be taken in the future to avoid emergency application of a pesticide
27 pursuant to this section.

28 c. The local school board, the board of trustees of a charter
29 school, or the principal or chief administrator of a private school, as
30 appropriate, may provide the notice required by subsection b. of this
31 section by: (1) written notice sent home with the student and provided
32 to the staff member; (2) a telephone call; (3) direct contact; or (4)
33 electronic mail.

34 d. When a pesticide is applied pursuant to this section, the local
35 school board, the board of trustees of a charter school, or the principal
36 or chief administrator of a private school, as appropriate, shall post a
37 sign warning of the pesticide application at the time of the application
38 of the pesticide, in accordance with the provisions of section 8 of this
39 act.

40 e. If there is an application of a pesticide pursuant to this section,
41 the local school board, the board of trustees of a charter school, or the
42 principal or chief administrator of a private school, as appropriate,
43 shall modify the school integrated pest management policy of the
44 school or school district if necessary, to minimize the future
45 emergency applications of pesticides under this section.

1 11. a. A pesticide, other than a low impact pesticide, shall not be
2 applied on school property where students are expected to be present
3 for academic instruction or for organized extra-curricular activities
4 prior to the time prescribed for re-entry to the application site by the
5 United State Environmental Protection Agency on the pesticide label,
6 except that if no specific numerical re-entry time is prescribed on a
7 pesticide label, such a pesticide, other than a low impact pesticide,
8 shall not be applied on school property where students are expected
9 to be present for academic instruction or for organized extra-curricular
10 activities within seven hours of the application.

11 b. A pesticide, other than a low impact pesticide, shall not be
12 applied in a school building when students are present. Students may
13 not be present in an untreated portion of a school building unless the
14 area being treated with a pesticide, other than a low impact pesticide,
15 is served by a separate ventilation system and is separated from the
16 untreated area by smoke or fire doors.

17 c. A low impact pesticide may be applied in areas of a school
18 building where students will not contact treated areas until sufficient
19 time is allowed for the substance to dry or settle, or after the period
20 of time prescribed for re-entry or for ventilation requirements on the
21 pesticide label has elapsed.

22 d. This section shall not apply when pesticides are applied on
23 school property for student instructional purposes or by public health
24 officials during the normal course of their duties.

25

26 12. A commercial pesticide applicator shall not be liable to any
27 person for damages resulting from the application of a pesticide at a
28 school if the damages are solely due to the failure of the local school
29 board, the board of trustees of a charter school, or the principal or
30 chief administrator of a private school, as appropriate, to provide the
31 notice required prior to the application of a pesticide pursuant to the
32 provisions of sections 7, 8, 9, or 10 of P.L. , c. (C.) (now in the
33 Legislature as this bill).

34

35 13. The department shall develop and make available to
36 commercial pesticide applicators a form which a commercial pesticide
37 applicator may request an integrated pest management coordinator to
38 sign prior to the application of a pesticide, other than a low impact
39 pesticide, on school property. The form developed pursuant to this
40 section shall set forth a certification by the integrated pest
41 management coordinator that the notice and posting requirements for
42 the application of a pesticide established pursuant to section 7 and
43 section 8 of this act, or the posting requirement established pursuant
44 to section 10 of this act, as appropriate, have been complied with.
45 Upon being presented by a commercial pesticide applicator with a
46 form pursuant to this section, the signature of the integrated pest

1 management coordinator shall be required as a condition for the
2 application of the pesticide.

3
4 14. a. The Department of Environmental Protection may issue an
5 administrative order against a local school board, the board of trustees
6 of a charter school, or a principal or chief administrator of a private
7 school that fails to adopt and implement a pesticide use and school
8 integrated pest management policy in compliance with the provisions
9 of this act. Upon identification of a violation of this act, the
10 department shall issue a notice of violation by certified mail or
11 personal service to the person responsible for the violation that
12 identifies the violation and states that an administrative order may be
13 issued requiring compliance with the act. Any notice of violation or
14 administrative order shall (1) specify the provision or provisions of
15 this act, or the rule or regulation adopted pursuant thereto, of which
16 the person is in violation; (2) cite the action that caused the violation;
17 and (3) require compliance with the provision of this act or the rule or
18 regulation adopted pursuant thereto of which the person is in
19 violation. In addition, any administrative order issued pursuant to this
20 section shall give notice to the person of his right to a hearing on the
21 matters contained in the order. The person shall have 20 days from
22 receipt of the order within which to deliver to the commissioner a
23 written request for a hearing. Subsequent to the hearing and upon
24 finding that a violation has occurred, the commissioner may issue a
25 final order. If no hearing is requested, the order shall become a final
26 order upon the expiration of the 20-day period.

27 b. The provisions of section 10 of P.L.1971, c.176 (C.13:1F-10)
28 shall not apply to this act.

29
30 15. The commissioner shall adopt, pursuant to the provisions of
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), such rules or regulations as are necessary to implement the
33 provisions of sections this act.

34
35 16. This act shall take effect immediately.