§ 33-1301. Unlawful acts.

It shall be unlawful:

1. For any person to distribute, sell, offer for sale or use within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

a. Any pesticide which has not been registered pursuant to the provisions of this article or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; provided that in the discretion of the commissioner a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

* b. Except as specified in regulation authorizing alternative pesticide containers, any pesticide unless it:

(1) is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing (i) the name and address of the manufacturer, registrant, or person for whom manufactured;

(ii) the name, brand, or trade-mark under which said article is sold; and

(iii) the net weight or measure of the content; subject, however, to such reasonable variations as the commissioner may permit; or

(2) meets the requirements of subparagraph one of this paragraph except that the container has been accidently damaged during handling prior to sale and the damage has been repaired by such person in accordance with his or her own specific "minor repair program" approved by the United States environmental protection agency pursuant to its October ninth, two thousand nine pesticide container repair interim policy. A copy of the approved program shall be forwarded to the

department within thirty days of approval and shall be kept at the person's place of business and be available for department review upon request.

* NB Effective until July 1, 2028

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(1) The name and address of the manufacturer, registrant, or person for whom manufactured;

(2) The name, brand, or trade-mark under which said article is sold; and

(3) The net weight or measure of the content; subject, however, to such reasonable variations as the commissioner may permit.

* NB Effective July 1, 2028

c. Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 33-0303, unless the label shall bear, in addition to any other matter required by this article:

(1) The skull and crossbones;

(2) The word "poison" prominently, in red, on a background of distinctly contrasting color; and

(3) A statement of an antidote for the pesticide.

d. The pesticide commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate, unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this article, or any other white powder pesticide which the commissioner, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored; unless it has been so colored or discolored; provided, that

the commissioner may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

e. Any pesticide which is adulterated or misbranded.

2. For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this article or regulations promulgated hereunder, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this article.

3. For any person to use for his own advantage or to reveal, other than to the commissioner or proper officials or employees of the state or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of this article.

4. For any person to store or dispose of any pesticide, or of any container which holds or has held a pesticide, except in compliance with the rules and regulations of the commissioner.

5. For any person to distribute, sell, offer for sale, purchase for the purpose of re-sale, or possess for the purpose of re-sale any restricted use pesticide without a commercial permit issued by the commissioner.

6. For a commercial permit holder to sell restricted use pesticides except to the holder of a non-cancelled purchase permit or to the holder of a commercial permit or a certified applicator.

7. For any person to purchase or possess, except for the purpose of re-sale, or use any restricted use pesticide without a purchase permit issued by the commissioner or without being a certified applicator.

8. For any person to engage in application of pesticides without a pesticide applicator certificate registration issued by the commissioner, except while working under the direct supervision of a certified applicator.

8-a. For any person or business to engage in the business of applying pesticides unless the business is registered by the commissioner.

9. For any person to use 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to an affected area, in violation of an order of the commissioner prohibiting or restricting such use.

10. For any person to remove or dispose of a seized or quarantined pesticide by sale or otherwise without the commissioner's permission.

11. In cities with a population of one million or more, it shall be unlawful to use any pesticide containing the active ingredient 4-aminopyridine, including but not limited to Avitrol.

12. For any state department, agency, public benefit corporation or any pesticide applicator employed thereby as a contractor or subcontractor to apply glyphosate on state property, provided that the application of glyphosate on state property is permitted only for (a) direct application in circumstances when there is no actual or significant threat of direct human exposure and no effective and practicable alternative, and (b) for the following uses, pursuant to regulations promulgated by the department:

(i) to maintain critical infrastructure;

(ii) to manage roadside vegetation to ensure public safety;

(iii) habitat management for the control of invasive species identified pursuant to title seventeen of article nine of this chapter, pests of significant public health importance, noxious weeds designated by the department as injurious to ecosystem health, and the protection of critical native plant species; and

(iv) for research purposes to develop sustainable alternatives for agricultural and environmental usages, as well as research regarding the environmental motility of glyphosate.

The department shall post information on its website regarding glyphosate usage pursuant to this section, including amount and location, by April first of each year.

13. a. It shall be unlawful for any person to apply or treat outdoor ornamental plants and turf, except for the production of agricultural commodities or structural commercial applications within one foot of a building foundation perimeter to manage structural pests provided that the application is not conducted on any blooming plant, with a pesticide containing:

(1) the active ingredients imidacloprid, thiamethoxam or acetamiprid on or after December thirty-first, two thousand twenty-six;

(2) the active ingredients clothianidin or dinotefuran effective December thirty-first, two thousand twenty-four.

b. (1) The provisions of paragraph a of this subdivision shall not apply where the department, by written order, determines that:

(i) a valid environmental emergency exists;

(ii) the pesticide would be effective in addressing the environmental emergency; and

(iii) no other, less harmful pesticide or pest management practice would be effective in addressing the environmental emergency.

(2) Any such order shall include the basis for the department's determination and specify the approved time period, geographic scope, and purpose of the permitted use of such pesticide. An order issued pursuant to this section shall be valid for a period not to exceed one year.

c. The provisions of this subdivision shall not apply to pesticide applications by, or under the supervision of, a certified applicator for treatment against invasive species affecting woody plants.

d. For the purposes of this subdivision "environmental emergency"

means: an occurrence of any pest which presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops, including, but not limited to, any exotic or foreign pest.

e. Applicators using a pesticide containing the active ingredients imidacloprid, thiamethoxam, acetamiprid, clothianidin, or dinotefuran pursuant to paragraph b or c of this subdivision must take a department approved neonicotinoid course annually and maintain a record of this course for three years.