

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 487

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO PESTICIDES AND CHEMIGATION; AMENDING SECTION 22-3420, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROHIBITED ACTS; AND AMENDING SECTION 22-3421, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULEMAKING.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-3420, Idaho Code, be, and the same is hereby amended to read as follows:

22-3420. PROHIBITED ACTS. No person shall:

(1) Use a pesticide in a manner inconsistent with its labeling except as provided for by rule.

(2) Make pesticide recommendations in a manner inconsistent with its labeling except as provided for by rule.

(3) Make false or misleading claims through any media relating to the effect of pesticides or application methods to be utilized.

(4) Operate a faulty or unsafe pesticide spray apparatus, aircraft, or other application device or equipment.

(5) Operate a faulty or unsafe chemigation system.

~~(6) Apply ineffective or improper pesticides.~~

~~(7) Make false, misleading or fraudulent records, reports or application forms required by the provisions of this act chapter.~~

~~(87) Apply pesticides in a faulty, careless, or negligent manner.~~

~~(98) Refuse or neglect to keep and maintain records required by the provisions of this act chapter, or to make reports when and as often as required.~~

~~(109) Distribute, sell or offer for sale any pesticide or device which that is misbranded.~~

~~(110) Formulate, distribute, sell or offer for sale any pesticide which that is adulterated.~~

~~(121) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroken container.~~

~~(132) Refuse or neglect to comply with any limitations or restrictions placed on a license or permit issued under the provisions of this act chapter.~~

~~(143) Refuse or neglect to comply with any other provisions of this act chapter or rule, or any lawful order of the director.~~

~~(154) Aid or abet a licensed or an unlicensed person to evade the provisions of this act chapter, conspire with such licensed or an unlicensed person to evade the provisions of this act chapter, or allow one's license or permit to be used by another person.~~

~~(165) Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.~~

~~(176) Impersonate any federal, state, county or city inspector or official.~~

1 (187) Use or supervise the use of any restricted-use pesticide, or any  
 2 state restricted-use pesticide, without having complied with the licensing  
 3 requirements pursuant to this ~~act~~ chapter, and such other restrictions as  
 4 had been determined by the director as necessary to prevent unreasonable ad-  
 5 verse effects on the environment, including injury to the applicator, per-  
 6 sons, or land, provided, that a person who is not a certified applicator but  
 7 an employee of a licensed private applicator may use a restricted-use pesti-  
 8 cide or a state restricted-use pesticide under the direct supervision of the  
 9 licensed private applicator unless otherwise prescribed by the labeling of  
 10 the pesticide.

11 (198) Use or supervise the use of a chemical in a chemigation system  
 12 without having complied with the licensing requirements pursuant to this ~~act~~  
 13 chapter and rules, and such other restrictions as have been determined by the  
 14 director. A person who is not a certified applicator but an employee of a  
 15 licensed private applicator may use chemicals under the direct supervision  
 16 of a licensed private applicator unless otherwise prescribed by the labeling  
 17 of the chemical.

18 (2019) Chemigate without installing the proper chemigation equipment  
 19 to protect against surface or ground water contamination.

20 (210) Fail to abide by the conditions of a stop sale, use or removal or-  
 21 der, or chemigation stop work order.

22 (221) Offer for sale, hold for sale, sell, barter, ship, deliver for  
 23 shipment, or receive and, having so received, deliver or offer to deliver,  
 24 chemicals for chemigation to an unlicensed person.

25 SECTION 2. That Section 22-3421, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 22-3421. ADOPTION AND SCOPE OF RULES. (1) The director is authorized  
 28 to adopt appropriate rules for carrying out the purpose and provisions of  
 29 this ~~act~~ chapter, including, but not limited to, rules providing for:

- 30 (a) The collection and examination of samples of pesticides or devices;  
 31 ~~and~~
- 32 (b) ~~The~~ safe handling, transportation, storage, display, distribu-  
 33 tion and disposal of pesticides and their containers; ~~and~~
- 34 (c) ~~Pro~~cedures in making pesticide recommendations; ~~and~~
- 35 (d) ~~Pro~~cedures for obtaining permits; ~~and~~
- 36 (e) ~~Regulating~~ the labeling of devices; ~~and~~
- 37 (f) ~~Pro~~cedures to take possession and dispose of canceled, suspended,  
 38 or otherwise unusable pesticides held by persons. For the purpose of  
 39 this section, the department may become a hazardous waste generator,  
 40 and may set fees to partially offset an agricultural chemical waste dis-  
 41 posal program's cost; ~~and~~
- 42 (g) ~~Anti~~pollution devices, chemigation equipment requirements, per-  
 43 formance standards and installation requirements; ~~and~~
- 44 (h) ~~List~~ing of the sites where chemigation will be conducted by the ap-  
 45 plicator; ~~and~~
- 46 (i) Restrictions and penalties, including but not limited to revoca-  
 47 tion, suspension, or denial of a license or registration, imposition of  
 48 a civil penalty, or the initiation or pursuit of any other action.

1           (2) Such rules shall be promulgated in accordance with chapter 52, ti-  
2 tle 67, Idaho Code.

3           (3) Rules related to restrictions and penalties must be promulgated  
4 through a negotiated rulemaking process and must be reviewed and repromul-  
5 gated at least every five (5) years through negotiated rulemaking.

6           (4) Rules relating to restrictions and penalties must include penalty  
7 assessment guidelines and a penalty assessment matrix that clearly defines  
8 the penalty based on the level of the violation, the effects of the viola-  
9 tion, and whether the violation was made knowingly or unknowingly.