

As Introduced

**124th General Assembly
Regular Session
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S. B. No. 217

SENATOR Mumper

A B I L L

To amend sections 907.42, 921.01, 921.02, 921.021, 1
921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 2
921.14, 921.151, 921.16, 921.18, 921.22 to 921.27, 3
921.29, 921.30, and 921.99; to amend, for the 4
purpose of adopting new section numbers as 5
indicated in parentheses, section 921.021 (921.09), 6
921.08 (921.19), 921.09 (921.12), 921.151 (921.22), 7
921.22 (921.08), 921.23 (921.26), 921.24 (921.23), 8
921.25 (921.24), and 921.26 (921.25), and 921.30 9
(921.31); to enact new section 921.30; and to 10
repeal sections 921.07 and 921.12 of the Revised 11
Code to revise the Pesticides Law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 907.42, 921.01, 921.02, 921.021, 13
921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 921.151, 14
921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 921.27, 15
921.29, 921.30, and 921.99 be amended, sections 921.021 (921.09), 16
921.08 (921.19), 921.09 (921.12), 921.151 (921.22), 921.22 17
(921.08), 921.23 (921.26), 921.24 (921.23), 921.25 (921.24), 18
921.26 (921.25), and 921.30 (921.31) be amended for the purpose of 19
adopting new section numbers as indicated in parentheses, and new 20
section 921.30 of the Revised Code be enacted to read as follows: 21

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Sec. 907.42. No person shall sell, distribute, or have in ~~his~~ the person's possession for sale, a poisonous seed treatment material in the state unless ~~such~~ the material meets the color standards or specifications that are established by the director of agriculture pursuant to section 907.43 of the Revised Code. Products sold and distributed as seed treatments shall conform to directions for use on labels accepted for registration under ~~sections 921.11 to 921.20, inclusive,~~ Chapter 921. of the Revised Code, and the federal "Insecticide, Fungicide and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, as amended.

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Sec. 921.01. As used in ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter:

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(A) "Active ingredient" means any ingredient that will prevent, destroy, kill, repel, control, or mitigate any pest, or that will act as a plant regulator, defoliant, or desiccant.

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(B) "Adulterated" shall apply to any pesticide if its strength or purity is less than or greater than the professed standard or quality as expressed on its labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

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(C) "Agricultural commodity" means any plant or part thereof or animal or animal product, produced for commercial use by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons, primarily for the sale, consumption, propagation, or other use, by ~~man~~ humans or animals.

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(D) "Aircraft" means any device used or designed for navigation or flight in the air, except a parachute or other device used primarily as safety equipment.

(E) "Animal" means all vertebrate and invertebrate species, including, but not limited to, ~~man~~ humans and other mammals, birds, fish, and shellfish.

(F) "Authorized diagnostic inspection" means a diagnostic inspection conducted by a commercial applicator in the pesticide-use category in which the commercial applicator is licensed under this chapter.

(G) "Beneficial insects" means those insects that, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

~~(G)~~(H) "Brand" means any word, name, symbol, device, or any combination thereof, that serves to distinguish the pesticide manufactured or distributed by one person from that manufactured or distributed by any other person.

~~(H)~~ "Certification" means the recognition by a certifying agency that a person is competent and authorized to use or directly supervise the use of restricted use pesticides.

(I) "Certified Pesticide applicator" means ~~an individual who is certified by the director of agriculture to use or to directly supervise the use of restricted use pesticides in categories specified in the certification or for specific uses named in the permit~~ a commercial applicator or a private applicator.

(J) "Private applicator" means an individual who is certified licensed under section 921.11 of the Revised Code ~~and who uses or directly supervises the use of any restricted use pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between~~

~~producers of agricultural commodities, on the property of another person.~~ 82
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(K) ~~"Commercial applicator" means an individual who is certified as a custom applicator, a custom operator, or a public operator, whether or not he is a private applicator with respect to some uses, and who uses or directly supervises the use of any pesticide, "Commercial applicator" includes an individual who provides diagnostic inspections to determine infestations of pests on property, or who offers pest control services, other than as provided by the definition of " private applicator is licensed under section 921.06 of the Revised Code to apply pesticides or to conduct authorized diagnostic inspections."~~ 84
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(L) ~~"Limited commercial applicator" means an individual other than a private applicator who limits his pesticide application activities including direct supervision of the use of pesticides to his own property or to that of his principal employer and who has been certified or licensed as competent by the director to apply restricted use pesticides or general use pesticides in those certain categories and in the manner specified in his certification or licensure.~~ 94
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(M) ~~"Certifying agency" means the department of agriculture or a similar agency of another state recognized as such by the United States environmental protection agency.~~ 102
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(N) ~~"Custom applicator" means any individual who applies pesticides in this state for hire, but does not include any of the following:~~ 105
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- ~~(1) A private applicator;~~ 108
- ~~(2) A public applicator;~~ 109
- ~~(3) A trained serviceman;~~ 110
- ~~(4) Limited commercial applicator.~~ 111

~~(O)~~ "Custom operator" means an individual, other than a trained serviceman, who may directly supervise a trained serviceman in activities that include recommending control, handling, mixing, and applying pesticides and the disposal of waste, excess materials, or containers.

~~(P)~~ "Competent" means properly qualified ~~to perform the functions that are prescribed by the director of agriculture and under the federal act, and that are associated with pesticide application as evidenced by passing the general examination and each applicable pesticide-use category examination for the pesticide-use categories in which a person applies pesticides and, in the case of a person who is a commercial applicator, conducts diagnostic inspections and by meeting any other criteria established by rule.~~

~~(Q)~~(M) "Federal act" means the "Federal Insecticide, Fungicide and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 136, as amended.

~~(R)~~(N) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

~~(S)~~(O) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

~~(T)~~(P) "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than ~~man~~ human beings and other than bacteria, virus, or other microorganism on or in living ~~man~~ human beings or other living animals. "Device" does not include equipment used for the application of pesticides when sold separately therefrom.

~~(U)~~(Q) "Direct supervision" means either of the following, as

applicable: 143

(1) Unless otherwise prescribed by its labeling, a pesticide 144
is considered to be applied under the direct supervision of a 145
~~commercial or limited~~ commercial applicator, if it is applied by a 146
trained ~~serviceman~~ serviceperson acting under the instructions and 147
control of a ~~commercial or limited~~ commercial applicator ~~who is~~ 148
~~responsible for the actions of that trained serviceman and who is~~ 149
~~available when needed, even though the commercial or limited~~ 150
~~commercial applicator is not physically present at the time and~~ 151
~~place the pesticide is applied;.~~ 152

(2) Unless otherwise prescribed by its labeling, a restricted 153
use pesticide is considered to be applied under the direct 154
supervision of a private applicator, if it is applied by an 155
~~employee or~~ immediate family member or a subordinate employee of 156
that private applicator acting under the instructions and control 157
of the private applicator, who is responsible for the actions of 158
that ~~employee or~~ immediate family member or subordinate employee 159
and who is available when needed, even though the private 160
applicator is not physically present at the time and place the 161
restricted use pesticide ~~handling activities are~~ application is 162
occurring. ~~Restricted use pesticide handling activities include~~ 163
~~equipment calibration, mixing, loading, application, operator~~ 164
~~safety, and disposal.~~ 165

~~(V)~~(R) "Directly supervise" means providing direct 166
supervision under division ~~(U)~~(Q)(1) or (2) or both of those 167
divisions of this section, as applicable. 168

~~(W)~~(S) "Distribute" means to offer or hold for sale, sell, 169
barter, ship, deliver for shipment, or receive and, having so 170
received, to deliver or offer to deliver, pesticides in this 171
state. "Distribute" does not mean to hold for use, apply, or use 172
pesticides or dilutions of pesticides, except when a pesticide 173
dealer holds for use, applies, or uses pesticides or dilutions of 174

pesticides in the course of business with a commercial applicator 175
who is employed by that pesticide dealer. 176

~~(X)~~(T) "Environment" includes water, air, land, and all 177
plants and ~~man~~ human beings and other animals living therein, and 178
the interrelationships that exist among them. 179

~~(Y)~~(U) "Fungus" means any nonchlorophyll-bearing thallophyte, 180
which is any nonchlorophyll-bearing plant of a lower order than 181
mosses and liverworts, as for example, rust, smut, mildew, mold, 182
yeast, and bacteria, except those on or in living ~~man~~ human beings 183
or other animals, or processed food, beverages, or 184
pharmaceuticals. 185

~~(Z)~~(V) "General use pesticide" means a pesticide that is 186
classified for general use under ~~provisions of~~ the federal act. 187

~~(AA)~~(W) "Ground equipment" means any device, other than 188
aircraft, used on land or water to apply pesticides in any form. 189

~~(BB)~~(X) "Immediate family" means a person's spouse residing 190
in the person's household, brothers and sisters of the whole or of 191
the half blood, children, including adopted children, parents, and 192
grandparents. 193

(Y) "Inert ingredient" means an ingredient that is not 194
active. 195

~~(CC)~~(Z) "Ingredient statement" means a statement of the name 196
and percentage of each active ingredient, together with the total 197
percentage of inert ingredients. When the pesticide contains 198
arsenic in any form, the ingredient statement shall include 199
percentages of total and water soluble arsenic, each calculated as 200
elemental arsenic. 201

~~(DD)~~(AA) "Insect" means any of the numerous small 202
invertebrate animals generally having the body more or less 203
obviously segmented, for the most part belonging to the class 204
insecta, including, but not limited to, beetles, bugs, bees, and 205

flies, and to other allied classes of arthropods, including, but 206
not limited to, spiders, mites, ticks, centipedes, and wood lice. 207

~~(EE)~~(BB) "Integrated pest management plan" means an 208
integrated pest management plan as defined by rule. 209

(CC) "Label" means the written, printed, or graphic matter 210
on, or attached to the pesticide or device, or any of its 211
containers or wrappers. 212

~~(FF)~~(DD) "Labeling" means all labels and other written, 213
printed, or graphic matter: 214

(1) Accompanying the pesticide product or device at any time; 215
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(2) To which reference is made on the label or in literature 217
accompanying the pesticide product or device, except when 218
accurate, nonmisleading reference is made to current official 219
publications of the United States environmental protection agency, 220
the United States department of agriculture or interior, the 221
United States department of health and human services, state 222
experiment stations, state agricultural colleges, or other similar 223
federal or state institutions or official agencies, authorized by 224
law to conduct research in the field of pesticides; 225

(3) Including all brochures, technical and sales bulletins, 226
and all advertising material. 227

~~(GG)~~(EE) "Licensure" includes certification as used in the 228
federal act. 229

(FF) "Misbranded" applies, if the conditions of either 230
division ~~(GG)~~(FF)(1) or (2) of this section are satisfied as 231
follows: 232

(1) To any pesticide or device, if at least one of the 233
following occurs: 234

(a) Its labeling bears any statement, design, or graphic 235

representation relative thereto or to its ingredients that is 236
false or misleading in any particular⁺. 237

(b) It is an imitation of or is distributed under the name of 238
another pesticide or device⁺. 239

(c) Any word, statement, or other information required to 240
appear on the label or labeling is not prominently placed thereon 241
with such conspicuousness, as compared with other words, 242
statements, designs, or graphic matter in the labeling, and in 243
such terms as to render it likely to be read and understood by the 244
ordinary individual under customary conditions of purchase and 245
use. 246

(2) To any pesticide, if at least one of the following 247
occurs: 248

(a) The labeling of a restricted use pesticide does not 249
contain a statement that it is a restricted use pesticide⁺. 250

(b) The labeling accompanying it does not contain directions 251
for use that are necessary for effecting the purpose for which the 252
pesticide is intended and, if complied with, together with any 253
requirements imposed by the federal act, that are adequate to 254
protect the environment⁺. 255

(c) The label does not bear all of the following: 256

(i) The name, brand, or trademark under which the pesticide 257
is distributed; 258

(ii) An ingredient statement on the part of the immediate 259
container and on the outside container and wrapper of the retail 260
package, if any, through which the ingredient statement on the 261
immediate container cannot be clearly read, which is presented or 262
displayed under customary conditions of purchase, provided that 263
the ingredient statement may appear prominently on another part of 264
the container as permitted by the amended federal act or by the 265

director;	266
(iii) A warning or caution statement that may be necessary and that, if complied with together with any requirement imposed under the federal act, would be adequate to protect the environment;	267 268 269 270
(iv) The net weight or measure of the contents, subject to such reasonable variations as the administrator of the United States environmental protection agency or the director of agriculture may permit;	271 272 273 274
(v) The name and address of the manufacturer, registrant, or person for whom manufactured;	275 276
(vi) The United States environmental protection agency registration number assigned to each establishment in which the pesticide was produced and the agency registration number assigned to it, as required by regulations under the federal act.	277 278 279 280
(d) That <u>The pesticide</u> contains any substance or substances in quantities highly toxic to man <u>human beings</u> unless the label bears, in addition to other label requirements, all of the following:	281 282 283 284
(i) The skull and crossbones;	285
(ii) The word "poison" in red prominently displayed on a background of distinctly contrasting color;	286 287
(iii) A statement of an antidote or a practical or emergency medical treatment, first aid or otherwise, in case of poisoning by the pesticide.	288 289 290
(e) It is contained in a package or other container or wrapping that does not conform to the standard established by the administrator of the United States environmental protection agency.	291 292 293 294
(HH) <u>(GG)</u> "Nematodes" means invertebrate animals of the phylum	295

nemathelminthes and class nematoda, which are unsegmented, round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and that inhabit soil, water, plants, or plant parts and also may be called nema or eel-worms.

~~(II) "Permit" means a certificate issued by the director of agriculture authorizing the purchase or use of a pesticide.~~

~~(JJ)~~(HH) "Pest" means a harmful, destructive, or nuisance insect, fungus, rodent, nematode, bacterium, bird, snail, weed, or parasitic plant or a harmful or destructive form of plant or animal life or virus, or any plant or animal species that the director declares to be a pest, except viruses, bacteria, or other microorganisms on or in living animals, including ~~man~~ human beings.

~~(KK)~~(II) "Pesticide" means any substance or mixture of substances intended for either of the following:

(1) Preventing, destroying, repelling, or mitigating any pest;

(2) Use as a plant regulator, defoliant, or desiccant.

"Pesticide" includes a pest monitoring system designated by rule.

~~(LL)~~(JJ) "Pesticide dealer" means any person who distributes restricted use pesticides or pesticides whose uses or distribution are further restricted by the director to the ultimate user or to a commercial applicator who is employed by that pesticide dealer.

~~(MM)~~(KK) "Pesticide application business" means ~~any location that is used for the purpose of engaging in the business of applying a person who performs pesticide business activities.~~

(LL) "Pesticide business activities" means any of the following:

(1) The application of pesticides to the property of another

~~for hire, but does not mean any location that is used exclusively to perform administrative or other functions not directly connected with the storage, preparation, handling, or distribution of the pesticides to be applied;~~

(2) The solicitation to apply pesticides;

(3) The conducting of authorized diagnostic inspections.

(MM) "Pesticide business registered location" means a location at which pesticide business activities are conducted and that is registered through the issuance of a license to a pesticide business under section 921.09 of the Revised Code.

(NN) "Pesticide-use category" means a specialized field of pesticide application or of diagnostic inspection as defined by rule.

~~(NN)~~(OO) "Plant regulator" means any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but ~~shall~~ does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

~~(OO)~~(PP) "Product name" means a coined or specific designation applied to an individual pesticide of a fixed combination and derivation.

~~(PP) "Public operator" means an individual who himself applies, or directly supervises the application of pesticides by a trained serviceman, while acting as an employee of the United States government, a state, county, township, or municipal governmental agency, or of a park district, port authority, or sanitary district created pursuant to Chapter 1545., 4582., or 6115. of the Revised Code.~~

(QQ) "Registrant" means a person who has registered a

pesticide pursuant to sections 921.01 to 921.29 of the Revised Code under this chapter. 357
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(RR) "Restricted use pesticide" means any pesticide or pesticide use classified by the administrator of the United States environmental protection agency for use only by a ~~certified~~ pesticide applicator or by an individual working under the direct supervision of a ~~certified~~ pesticide applicator. 359
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(SS) "Rule" means a rule adopted under section 921.16 of the Revised Code. 364
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(~~TT~~) "Sell or sale" means exchange of ownership or transfer of custody. 366
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(~~TT~~)(UU) "State restricted use pesticide" means any pesticide or pesticides classified by the director subsequent to a hearing held in accordance with Chapter 119. of the Revised Code for use only by ~~certified~~ pesticide applicators or individuals working under their direct supervision. 368
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(~~UU~~)(VV) "Unreasonable adverse effects on the environment" means any unreasonable risk to ~~man~~ human beings or the environment taking into account the economic, social, and environmental benefits and costs of the use of any pesticide. 373
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(~~VV~~)(WW) "Trained ~~serviceman~~ serviceperson" means ~~an employee of a commercial applicator or limited commercial applicator whom the commercial applicator or limited commercial applicator has instructed in the proper use of the equipment and all pesticides with which the employee is to work~~ an employee of a pesticide business, other business, state agency, or political subdivision who has been trained to apply pesticides while under the direct supervision of a commercial applicator. 377
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(~~WW~~)(XX) "Weed" means any plant that grows where not wanted. 385

(~~XX~~)(YY) "Wildlife" means all living things that are neither 386

human, domesticated, ~~nor are~~ or pests, including, but not limited 387
to, mammals, birds, and aquatic life. 388

~~(YY)(ZZ)~~ "Trade secret" and "confidential business 389
information" mean any formula, plan, pattern, process, tool, 390
mechanism, compound, procedure, production date, or compilation of 391
information that is not patented, that is known only to certain 392
individuals within a commercial concern, and that gives its user 393
an opportunity to obtain ~~an~~ a business advantage over competitors 394
who do not know or use it. 395

Sec. 921.02. (A) ~~Each~~ No person shall distribute a pesticide 396
~~that is distributed~~ within this state ~~shall be~~ unless the 397
pesticide is registered with the director of agriculture ~~subject~~ 398
~~to sections 921.01 to 921.29 of the Revised Code~~ under this 399
chapter. Registrations shall be issued for a period of time 400
established by rule and shall be renewed in accordance with 401
deadlines established by rule. Registration is not required if a 402
pesticide is shipped from one plant or warehouse to another plant 403
or warehouse operated by the same person and used solely at that 404
plant or warehouse as a constituent part to make a pesticide that 405
is registered under ~~sections 921.01 to 921.29 of the Revised Code~~ 406
this chapter, or if the pesticide is distributed under the 407
provisions of an experimental use permit issued under section 408
921.03 of the Revised Code or an experimental use permit issued by 409
the United States environmental protection agency. 410

(B) The applicant for registration of a pesticide shall file 411
a statement with the director on a form provided by the director, 412
which shall include all of the following: 413

(1) The name and address of the applicant and the name and 414
address of the person whose name will appear on the label, if 415
other than the applicant's name; 416

(2) The brand and product name of the pesticide; 417

(3) Any necessary information required for completion of the 418
department of agriculture's application for registration, 419
including the agency registration number; 420

(4) A complete copy of the labeling accompanying the 421
pesticide and a statement of all claims to be made for it, 422
including the directions for use and the use classification as 423
provided for in the federal act. 424

(C) The director, when the director considers it necessary in 425
the administration of ~~sections 921.01 to 921.29 of the Revised~~ 426
~~Code~~ this chapter, may require the submission of the complete 427
formula of any pesticide including the active and inert 428
ingredients. 429

(D) The director may require a full description of the tests 430
made and the results thereof upon which the claims are based for 431
any pesticide. The director shall not consider any data submitted 432
in support of an application, without permission of the applicant, 433
in support of any other application for registration unless the 434
other applicant first has offered to pay reasonable compensation 435
for producing the test data to be relied upon and the data are not 436
protected from disclosure by section 921.04 of the Revised Code. 437
In the case of a renewal of registration, a statement shall be 438
required only with respect to information that is different from 439
that furnished when the pesticide was registered or last 440
registered. 441

(E) The director may require any other information to be 442
submitted with an application. 443

Any applicant may designate any portion of the required 444
registration information as a trade secret or confidential 445
business information. Upon receipt of any required registration 446
information designated as a trade secret or confidential business 447
information, the director shall consider the designated 448

information as confidential and shall not reveal or cause to be 449
revealed any such designated information without the consent of 450
the applicants, except to persons directly involved in the 451
registration process described in this section or as required by 452
law. 453

(F) Each applicant shall pay a registration and inspection 454
fee ~~of fifty dollars per year~~ established by rule for each product 455
name and brand registered for the company whose name appears on 456
the label. If an applicant files for a renewal of registration 457
after the deadline established by rule, the applicant shall pay a 458
penalty fee ~~of twenty-five dollars~~ established by rule for each 459
product name and brand registered for the applicant. The penalty 460
fee shall be added to the original fee and paid before the renewal 461
registration is issued. In addition to any other remedy available 462
under ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter, 463
if a pesticide that is not registered pursuant to this section is 464
distributed within this state, the person required to register the 465
pesticide shall do so and shall pay a penalty fee ~~of twenty-five~~ 466
~~dollars~~ established by rule for each product name and brand 467
registered for the applicant. The penalty fee shall be added to 468
the original fee and paid before the registration is issued. 469

(G) Provided that the state is ~~certified~~ authorized by the 470
administrator of the United States environmental protection agency 471
to register pesticides to meet special local needs, the director 472
shall require the information set forth under divisions (B), (C), 473
(D), and (E) of this section and shall register any such pesticide 474
after determining that all of the following conditions are met: 475

(1) Its composition is such as to warrant the proposed claims 476
for it. 477

(2) Its labeling and other material required to be submitted 478
comply with the requirements of the federal act and of ~~sections~~ 479
~~921.01 to 921.29 of the Revised Code~~ this chapter, and rules 480

adopted thereunder. 481

(3) It will perform its intended function without 482
unreasonable adverse effects on the environment. 483

(4) When used in accordance with widespread and commonly 484
recognized practice, it will not generally cause unreasonable 485
adverse effects on the environment. 486

(5) The classification for general or restricted use is in 487
conformity with the federal act. 488

The director shall not make any lack of essentiality a 489
criterion for denying the registration of any pesticide. When two 490
pesticides meet the requirements of ~~this~~ division (G) of this 491
section, the director shall not register one in preference to the 492
other. 493

(H)(1) The director may refuse to register a pesticide if the 494
application for registration fails to comply with this section. 495

(2) The director may suspend or revoke a pesticide 497
registration after a hearing in accordance with Chapter 119. of 498
the Revised Code for a pesticide that fails to meet the claims 499
made for it on its label. 500

(3) The director may immediately suspend a pesticide 501
registration, prior to a hearing, when the director believes that 502
the pesticide poses an immediate hazard to human or animal health 503
or a hazard to the environment. Not later than fifteen days after 504
suspending the registration, the director shall determine whether 505
the pesticide poses such a hazard. If the director determines that 506
no hazard exists, the director shall lift the suspension of the 507
registration. If the director determines that a hazard exists, the 508
director shall revoke the registration in accordance with Chapter 509
119. of the Revised Code. 510

~~Sec. 921.06. (A)(1) No individual shall act as or hold oneself out to the public as being a custom applicator do any of the following without having a custom commercial applicator license issued by the director of agriculture. The individual shall obtain an additional license for each pesticide application business location for which the individual is the commercial applicator of record. Licenses:~~

~~(a) Apply pesticides for a pesticide business without direct supervision;~~

~~(b) Apply pesticides as part of the individual's duties while acting as an employee of the United States government, a state, county, township, or municipal corporation, or a park district, port authority, or sanitary district created under Chapter 1545., 4582., or 6115. of the Revised Code, respectively;~~

~~(c) Apply restricted use pesticides. Division (A)(1)(c) of this section does not apply to a private applicator or an immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.~~

~~(d) If the individual is the owner of a business other than a pesticide business or an employee of such an owner, apply pesticides at any of the following publicly accessible sites that are located on the property:~~

~~(i) Food service operations as defined in section 3717.01 of the Revised Code;~~

~~(ii) Retail food establishments as defined in section 3717.01 of the Revised Code;~~

~~(iii) Golf courses;~~

~~(iv) Rental properties of more than four apartment units at one location;~~

(v) Hospitals or medical facilities as defined in section 3701.01 of the Revised Code; 541
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(vi) Child day-care centers or school child day-care centers as defined in section 5104.01 of the Revised Code; 543
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(vii) Facilities owned or operated by a school district established under Chapter 3311. of the Revised Code, including an education service center, a community school established under Chapter 3314. of the Revised Code, or a chartered or nonchartered nonpublic school that meets minimum standards established by the state board of education; 545
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(viii) Any other site designated by rule. 551

(e) Conduct authorized diagnostic inspections. 552

(2) Divisions (A)(1)(a) to (d) of this section do not apply to an individual who is acting as a trained serviceperson under the direct supervision of a commercial applicator. 553
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(3) Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. The fee for each such license ~~is one hundred dollars per year to be submitted with the application~~ shall be established by rule. If a license is not issued or renewed, the application fee shall be retained by the state as payment for the reasonable expense of processing the application. The director shall by rule classify by ~~categories~~ pesticide-use category licenses to be issued under this section. A single license may include more than one pesticide-use category. No individual shall be required to pay an additional license fee if the individual is licensed for more than one category, ~~but the individual shall pay an additional license fee for each pesticide application business location for which the individual is the commercial applicator of record.~~ 556
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The fee for each license or renewal does not apply to an 571

applicant who is an employee of the department of agriculture. 572

(B) Application for a ~~custom~~ commercial applicator license 573
shall be made on a form prescribed by the director. Each 574
application for a license shall state the ~~license~~ pesticide-use 575
category or categories of license for which the applicant is 576
applying and other information that the director determines 577
essential to the administration of ~~sections 921.01 to 921.29 of~~ 578
~~the Revised Code~~ this chapter. 579

(C) If the director finds that the applicant is ~~qualified~~ 580
competent to apply pesticides and conduct diagnostic inspections 581
and that the applicant has passed both the general examination and 582
each applicable pesticide-use category examination as required 583
under division (A) of section 921.12 of the Revised Code, the 584
director shall issue a ~~custom~~ commercial applicator license 585
limited to the pesticide-use category or categories for which the 586
applicant is ~~qualified~~. ~~Custom applicators, upon obtaining a valid~~ 587
~~license under this section, are certified applicators for the~~ 588
~~purpose of applying or directly supervising the use of restricted~~ 589
~~use pesticides pertinent to their respective categories found to~~ 590
~~be competent. If the director rejects an application, the director~~ 591
~~may explain why the application was rejected, describe the~~ 592
~~additional requirements necessary for the applicant to obtain a~~ 593
~~license, and return the application. The applicant may resubmit~~ 594
~~the application without payment of any additional fee.~~ 595

(D)(1) A person who is a commercial applicator shall be 596
deemed to hold a private applicator's license for purposes of 597
applying pesticides on agricultural commodities that are produced 598
by the commercial applicator. 599

(2) A commercial applicator shall apply pesticides only in 600
the pesticide-use category or categories in which the applicator 601
is licensed under this chapter. 602

~~Sec. 921.22~~ 921.08. Nonresident custom applicators, custom operators, public operators, and limited commercial applicators, and nonresident private applicators who are licensed in another state having a state plan approved by the United States environmental protection agency to operate in certain pesticide-use categories may be issued a license by the director of agriculture covering the same categories in this state without a ~~categorical~~ pesticide-use category examination. However, such nonresidents may be required to demonstrate their knowledge of ~~the laws this chapter~~ and rules of ~~this state adopted under it~~ by submitting themselves to an examination covering ~~such laws this chapter~~ and ~~those~~ rules contained and promulgated under this chapter. ~~A nonresident custom operator can be licensed in this state only if his supervisor or employer is also licensed in this state. Private applicators certified in another state may operate in Ohio as do resident private applicators without also being certified in Ohio, except that they may be required to demonstrate their knowledge of the laws and rules of this state. Licenses or certificates issued pursuant to this section may be suspended or revoked in the same manner as other licenses or certificates issued pursuant to this chapter, or upon suspension or revocation of the license or certificate of another state or the federal government supporting the issuance of an Ohio a license or certificate issued under this section.~~

~~Sec. 921.021~~ 921.09. (A)(1) No person shall own or operate a pesticide ~~application~~ business without obtaining a license ~~for~~ each location owned or operated by the person in the state from the director of agriculture. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule.

(2) A person applying for a pesticide business license shall

register each location that is owned by the person and used for 634
the purpose of engaging in the pesticide business. 635

(B) Any person who owns or operates a pesticide ~~application~~ 636
business outside of this state, but engages in the business of 637
applying pesticides to properties of another for hire in this 638
state, shall obtain a license for the person's principal 639
out-of-state location from the director. In addition, the person 640
shall register each location that is owned by the person in this 641
state and used for the purpose of engaging in the pesticide 642
business. 643

(C)(1) The person applying for a pesticide ~~application~~ 644
business license shall file a statement with the director, on a 645
form provided by the director, that shall include ~~any~~ all of the 646
following: 647

(a) The address of the principal place of business of the 648
pesticide business; 649

(b) The address of each location that the person intends to 650
register under division (A)(2) or (B) of this section; 651

(c) Any other information that the director determines 652
necessary and that the director requires by rule. ~~Each~~ 653

(2) Each applicant shall pay a license fee of ~~twenty dollars~~ 654
~~per year for each pesticide application business license the~~ 655
~~applicant is required to obtain~~ established by rule for the 656
pesticide business plus an additional fee established by rule for 657
each pesticide business registered location specified in the 658
application. The license may be renewed upon payment of a renewal 659
fee established by rule plus an additional fee established by rule 660
for each pesticide business registered location. A copy of the 661
license shall be maintained and conspicuously displayed at each 662
such location. 663

(3) The issuance of a pesticide business license constitutes 664

registration of any pesticide business location identified in the application under division (C)(1) of this section.

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(4) The owner or operator of a pesticide business shall notify the director not later than fifteen days after any change occurs in the information required under division (C)(1)(a) or (b) of this section.

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(D) The owner or operator of a pesticide ~~application~~ business shall employ at least one ~~licensed custom~~ commercial applicator for each pesticide ~~application~~ business registered location the owner or operator owns or operates. A commercial applicator shall not be employed at more than one pesticide business registered location.

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(E) The owner or operator of a pesticide ~~application~~ business is responsible for the acts of each employee in the handling, application, and use of pesticides and in the conducting of diagnostic inspections. The pesticide ~~application~~ business license is subject to denial, modification, suspension, or revocation after a hearing for any violation of ~~sections 921.01 to 921.29 of the Revised Code, if it is determined that the owner or operator ratified or knowingly or negligently permitted any officer, employee, or agent to commit the violations this chapter or any rule adopted or order issued under it.~~ The director ~~also~~ may levy against the owner or operator any civil penalties authorized by division (B) of section 921.16 of the Revised Code for any violation of ~~sections 921.02 to 921.29 of the Revised Code for any violation of those sections this chapter or any rule adopted or order issued under it that is committed by the owner or operator or any by the owner's or operator's officer, employee, or agent. For purposes of this division, an owner or operator is deemed to have ratified violations committed by any officer, employee, or agent if collectively the officers, employees, or agents commit three violations of a high or moderate level of severity in~~

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~~accordance with established department enforcement guidelines that~~ 697
~~relate directly to the storage, preparation, handling,~~ 698
~~distribution, or application of pesticides, or any violation~~ 699
~~involving fraud, within a twenty-four month period.~~ 700

(F) The director may modify a license issued under this 701
section by one of the following methods: 702

(1) Revoking a licensee's authority to operate out of a 703
particular pesticide business registered location listed under 704
division (C)(1)(b) of this section; 705

(2) Preventing a licensee from operating within a specific 706
pesticide-use category. 707

(G) The director may deny a pesticide ~~application~~ business 708
license to any ~~current owner, operator, officer, or agent~~ person 709
whose pesticide ~~application~~ business license has been revoked 710
within the previous thirty-six months. 711

~~(G) The director shall adopt any rules necessary to~~ 712
~~administer and enforce this section~~ (H) Each pesticide business 713
registered location that is owned by a pesticide business is 714
subject to inspection by the director. 715

Sec. 921.10. (A) The director of agriculture shall not issue 716
a pesticide ~~application~~ business license until the applicant has 717
submitted to the director an effective liability insurance policy 718
or such other evidence of financial responsibility as the director 719
determines necessary. The director shall establish by rule, in 720
accordance with Chapter 119. of the Revised Code, the amount and 721
condition of such liability insurance or other evidence of 722
financial responsibility required. Such requirements shall be 723
based upon the category and operation of the applicant. 724

(B) ~~Should the evidence of financial responsibility expire~~ 725
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~~without renewal prior to the expiration of the license, the~~ 727
~~license of the pesticide application business is automatically~~ 728
~~suspended.~~ 729

~~(C)~~ Should the evidence of financial responsibility furnished 730
become unsatisfactory, the pesticide ~~application~~ business shall 731
upon notice immediately execute evidence of financial 732
responsibility meeting the requirements of this section or 733
applicable rules, and should the pesticide ~~application~~ business 734
fail to do so, the director shall suspend the pesticide 735
~~application~~ business's license and give the business notice of 736
such suspension. 737

~~(D)~~(C) The licensee to whom a suspension order is issued 738
shall be afforded a hearing in accordance with Chapter 119. of the 739
Revised Code, after which the director shall reinstate or revoke 740
the suspended license. 741

~~(E)~~(D) Nothing in this chapter shall be construed to relieve 742
any person from liability for any damage to the person or lands of 743
another caused by the use of pesticides even though such use 744
conforms to the rules. 745

Sec. 921.11. (A)(1) No individual shall apply restricted use 746
pesticides unless the individual is one of the following: 747

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 748
of the Revised Code; 749

(b) ~~A private applicator certified~~ Licensed under division 750
(B) of this section; 751

(c) A trained ~~serviceman~~ serviceperson who is acting under 752
the direct supervision of a commercial applicator ~~or limited~~ 753
~~commercial applicator~~; 754

(d) An ~~employee or~~ immediate family member or a subordinate 755
employee of a ~~certified~~ private applicator who is acting under the 756

direct supervision of that private applicator. 757

(2) No individual shall directly supervise the application of 758
a "restricted use pesticide" unless ~~he~~ the individual is one of 759
the following: 760

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 761
of the Revised Code; 762

(b) ~~A private applicator certified~~ Licensed under division 763
(B) of this section. 764

(B) The director of agriculture shall adopt rules to 765
establish standards and procedures for the ~~certification licensure~~ 766
of private applicators. An individual shall apply for 767
~~certification as~~ a private applicator license to the director, on 768
forms prescribed by the director. The individual shall include in 769
the application the pesticide-use category or categories of the 770
license for which the individual is applying and any other 771
information that the director determines is essential to the 772
administration of this chapter. The fee for each ~~certification is~~ 773
~~thirty dollars and the certification license shall be established~~ 774
by rule. Licenses shall be issued for a period is three years of 775
time established by rule and shall be renewed in accordance with 776
deadlines established by rule. If a ~~certification license~~ is not 777
issued or renewed, the state shall retain any fee submitted as 778
payment for reasonable expenses of processing the application. 779

Sec. ~~921.09~~ 921.12. (A) The director of agriculture shall 780
require each applicant for a license under ~~sections~~ section 781
~~921.06, 921.07, 921.08, and 921.12~~ or 921.11 of the Revised Code 782
to be examined on the applicant's knowledge and competency in ~~the~~ 783
each of the following: 784

(1) This chapter and rules adopted under it; 785

(2) The proper use, handling, and application of pesticides 786

and, if the applicant is applying for a license under section 921.06 of the Revised Code, in the conducting of diagnostic inspections in the pesticide-use categories for which the applicant has applied. 787
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(B) Each application for renewal of a license provided for in section 921.06, ~~921.07, 921.08, or 921.12~~ of the Revised Code, shall be filed prior to the deadline established by rule. If filed ~~thereafter~~ after the deadline, a penalty of fifty per cent shall be assessed ~~the custom applicator and the custom operator~~ and added to the original fee and shall be paid by the applicant before the renewal license is issued. However, if a license ~~or certification~~ issued under section 921.06, ~~921.07, 921.08, or 921.12~~ of the Revised Code is not renewed within one year of the date of expiration, ~~then such the licensee or certificate holder~~ shall be required to take another examination on this chapter and rules adopted under it and on the proper use, handling, and application of pesticides and the proper conducting of diagnostic inspections in the pesticide-use categories for which the licensee has been licensed. 791
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(C) A person who fails to pass an examination under division (A) or (B) of this section is not entitled to an adjudication under Chapter 119. of the Revised Code for that failure. 806
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(D) The holder of a ~~custom applicator license, custom operator license, limited commercial applicator license, or public operator license~~ may renew ~~such the~~ license within one year of the date of expiration without re-examination unless the director determines that a new examination is necessary to insure that the holder continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly. 809
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~~(D)~~(E) The director shall determine when re-examination for recertification of the renewal of licenses for private applicators 817
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is required to insure that private applicators continue to meet 819
the requirements of changing technology and to assure a continuing 820
level of competence and ability to use pesticides safely and 821
properly. 822

Sec. 921.13. (A) Any person who is acting in the capacity of 823
a pesticide dealer or who advertises or assumes to act as a 824
pesticide dealer at any time shall obtain a pesticide dealer 825
license from the director of agriculture. Licenses shall be issued 826
for a period of time established by rule and shall be renewed in 827
accordance with deadlines established by rule. A license is 828
required for each location or outlet within this state from which 829
the person distributes pesticides. 830

Any pesticide dealer who has no pesticide dealer outlets in 831
this state and who distributes restricted use pesticides directly 832
into this state shall obtain a pesticide dealer license from the 833
director for the pesticide dealer's principal out-of-state 834
location or outlet and for each sales person operating in the 835
state. 836

The applicant shall include a ~~twenty-five dollar~~ license fee 837
established by rule with the application for a license. The 838
application shall be made on a form prescribed by the director. 839

Each pesticide dealer shall submit records to the director of 840
all of the restricted use pesticides the pesticide dealer has 841
distributed, as specified by the director, and duplicate records 842
shall be retained by the pesticide dealer for a period of time 843
established by rules. 844

(B) This section does not apply to ~~a custom applicator who~~ 845
~~exclusively sells pesticides only as an integral part of the~~ 846
~~custom applicator's pesticide application business when the~~ 847
~~pesticides are dispensed only through equipment used for the~~ 848
~~pesticide application or to any federal, state, county, or~~ 849

municipal agency that provides pesticides for its own programs. 850

(C) Each licensed pesticide dealer is responsible for the 851
acts of each employee in the solicitation and sale of pesticides 852
and all claims and recommendations for use of pesticides. The 853
pesticide dealer's license is subject to denial, suspension, or 854
revocation after a hearing for any violation of ~~sections 921.01 to~~ 855
~~921.29 of the Revised Code~~ this chapter whether committed by the 856
pesticide dealer or by the pesticide dealer's officer, agent, or 857
employee. 858

Sec. 921.14. ~~(A) Each licensed custom applicator, limited~~ 859
~~commercial applicator, and public operator~~ shall keep a record of 860
~~all~~ both of the following: 861

(1) All diagnostic inspections conducted to determine 862
infestations of pests as required by rules adopted under division 863
(C) of section 921.16 of the Revised Code; 864

(2) All pesticide applications made by him the applicator and 865
by any trained serviceperson acting under the applicator's direct 866
supervision as required by rules adopted under division (C) of 867
section 921.16 of the Revised Code ~~and maintain that record.~~ 868

Each commercial applicator shall submit copies of the records 869
required under division (A) of this section to the pesticide 870
business, other business, state agency, or political subdivision 871
that employs the commercial applicator. 872

(B) Each pesticide business, other business, state agency, or 873
political subdivision that receives copies of records under 874
division (A) of this section shall retain them for a period of 875
~~three years from the date of the pesticide application to which~~ 876
~~that record refers or for any longer period that the director of~~ 877
~~agriculture determines necessary~~ time established by rule. 878

(C) Each certified private applicator shall keep a record of 879

all restricted use pesticide applications made by ~~him~~ the 880
applicator or under ~~his~~ the applicator's direct supervision as 881
required by rules adopted under division (C) of section 921.16 of 882
the Revised Code ~~and~~. In addition, each private applicator shall 883
maintain ~~that~~ the record for a period of three years from the date 884
of the restricted use pesticide application to which that record 885
refers or for any longer period that the director of agriculture 886
determines necessary. 887

~~Each licensed custom applicator or custom operator shall keep~~ 888
~~a record of all diagnostic inspections to determine infestations~~ 889
~~of pests and of all pest control services as required by rules~~ 890
~~adopted under division (C) of section 921.16 of the Revised Code,~~ 891
~~and maintain that record for a period of three years from the date~~ 892
~~of the inspection to which that record refers or for any longer~~ 893
~~period that the director determines necessary.~~ 894

Sec. 921.16. (A) The director of agriculture shall adopt 895
rules the director determines necessary for the effective 896
enforcement and administration of ~~sections 921.01 to 921.29 of the~~ 897
~~Revised Code~~ this chapter. The rules may relate to, but are not 898
limited to, the time, place, manner, and methods of application, 899
materials, and amounts and concentrations of application of 900
pesticides, may restrict or prohibit the use of pesticides in 901
designated areas during specified periods of time, and shall 902
encompass all reasonable factors that the director determines 903
necessary to minimize or prevent damage to the environment. In 904
addition, the rules shall establish the fees, deadlines, and time 905
periods for registration ~~and,~~ registration renewal, late 906
registration renewal, and failure to register under section 921.02 907
of the Revised Code, and the fees, deadlines, and time periods for 908
licensure and license renewal under sections ~~921.021,~~ 921.06, 909
~~921.07,~~ ~~921.08,~~ ~~921.12~~ 921.09, 921.11, and 921.13 of the Revised 910
Code, ~~and the deadlines for certification under section 921.11 of~~ 911

~~the Revised Code.~~ 912

(B) The director shall adopt rules that establish a schedule 913
of civil penalties for violations of ~~sections 921.01 to 921.29 of~~ 914
~~the Revised Code~~ this chapter, or any rule or order adopted or 915
issued under ~~those sections~~ it, provided that the civil penalty 916
for a first violation shall not exceed five thousand dollars and 917
the civil penalty for each subsequent violation shall not exceed 918
ten thousand dollars. In determining the amount of a civil penalty 919
for a violation, the director shall consider factors relevant to 920
the severity of the violation, including past violations and the 921
amount of actual or potential damage to the environment or to 922
human beings. 923

(C) The director shall adopt rules that set forth the 924
conditions under which the director: 925

(1) Requires that notice or posting be given of a proposed 926
application of a pesticide; 927

~~(2) Requires a permit to apply a restricted use pesticide;~~ 928

~~(3)~~ Requires inspection, condemnation, or repair of equipment 929
used to apply a pesticide; 930

~~(4)~~(3) Will suspend, revoke, or refuse to issue any pesticide 931
registration for a violation of ~~sections 921.01 to 921.29 of the~~ 932
~~Revised Code~~ this chapter; 933

~~(5)~~(4) Requires safe handling, transportation, storage, 934
display, distribution, and disposal of pesticides and their 935
containers; 936

~~(6)~~(5) Ensures the protection of the health and safety of 937
agricultural workers storing, handling, or applying pesticides, 938
and all residents of agricultural labor camps, as that term is 939
defined in section 3733.41 of the Revised Code, who are living or 940
working in the vicinity of pesticide-treated areas; 941

~~(7)(6)~~ Requires a record to be kept of all pesticide applications made by each licensed custom applicator, limited commercial applicator, ~~and public operator~~ and by any trained serviceperson acting under the commercial applicator's direct supervision and of all restricted use pesticide applications made by each ~~certified~~ private applicator as required under section 921.14 of the Revised Code;

~~(8)(7)~~ Determines ~~those the~~ pesticide use categories of applicators who conduct diagnostic inspections that must be conducted by a commercial applicator;

(8) Requires a record to be kept of all diagnostic inspections or who offer pest control services that must be performed conducted by a certified each commercial applicator and for which written records are required and by any trained service person;

(9) Specifies what constitutes direct supervision. The rules adopted under division (C)(9) of this section may allow direct supervision to be provided by wireless telephone or two-way radio. The director shall review the rules adopted under division (C)(9) of this section every two years and revise them as necessary.

(D) The director shall prescribe standards for the certification licensure of applicators of pesticides consistent with those prescribed by the federal act and the regulations adopted ~~thereunder~~ under it or prescribe standards that are more restrictive than those prescribed by the federal act and the regulations adopted under it. The standards may relate to the use and handling of pesticides or to the use and handling of the a pesticide or class of pesticide uses covered by the individual's certification, and shall relate to the hazards involved and the use ~~experience~~ to an individual's pesticide-use category.

The director shall take into consideration standards of the United States environmental protection agency.

(E) The director may adopt rules setting forth the conditions under which the director will:

(1) Collect and examine samples of pesticides or devices;

(2) Specify classes of devices that shall be subject to this chapter;

(3) Prescribe other necessary registration information.

(F) The director may adopt rules to designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use.

(G) ~~The~~ Except as provided in division (D) of this section, the director shall not adopt any rule under ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter that ~~meets either of the following:~~

~~(1) Permits any pesticide use that is prohibited by the federal act and regulations or orders issued thereunder;~~

~~(2) As to certified applicators of restricted use pesticides as designated under the federal act, and rules adopted as to experimental use permits as authorized by the federal act, is inconsistent with the requirements of the federal act and regulations adopted thereunder.~~

(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than human beings and other than bacteria, viruses, and other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment.

(I) The director may make reports to the United States 1003
environmental protection agency, in the form and containing the 1004
information the agency may require. 1005

(J) The director shall adopt rules for the application, use, 1006
storage, and disposal of pesticides if, in the director's 1007
judgment, existing programs of the United States environmental 1008
protection agency, necessitate such rules or pesticide labels do 1009
not sufficiently address issues or situations identified by the 1010
department of agriculture or interested state agencies. ~~The~~ 1011

(K) The director may develop do either or both of the 1012
following: 1013

(1) Develop and enter into cooperative agreements with other 1014
state agencies for the purpose of developing and implementing 1015
voluntary or mandatory ~~pesticide~~ integrated pest management plans 1016
that are designed to prevent unreasonable adverse effects on human 1017
health and the environment; 1018

(2) Develop and implement voluntary or mandatory integrated 1019
pest management plans that are designed to prevent unreasonable 1020
adverse affects on human health and the environment. 1021

~~(K)~~(L) The director shall adopt rules establishing training 1022
requirements for a trained serviceperson. 1023

(M) The director shall adopt all rules under ~~sections 921.01~~ 1024
to 921.29 of the Revised Code this chapter in accordance with 1025
Chapter 119. of the Revised Code. 1026

Sec. 921.18. (A) The director of agriculture may: 1027

(1) ~~Enter upon~~ In order to determine compliance with this 1028
chapter and rules adopted under it, enter any public or private 1029
premises or transport vehicles during regular business hours ~~in~~ 1030
~~order to have access~~ to do any or all of the following: 1031

(a) Inspect and copy books, accounts, pesticide application 1032
records, and memoranda, pesticides, or devices, subject to the 1033
sections of the law and the rules thereunder for the purpose of 1034
determining pesticide applications, the financial responsibility 1035
of the applicator, the documents; 1036

(b) Inspect the storage or disposal of pesticides; ~~also, to~~ 1037
~~inspect~~ 1038

(c) Inspect and sample pesticides in storage or in use, ~~the~~ 1039
~~disposal of pesticides, to inspect;~~ 1040

(d) Inspect equipment or devices used to apply pesticides, 1041
~~and to make copies of records in conformity therewith;~~ 1042

(e) Inspect storage facilities and sites. 1043

(2) Enter upon any public or private premises at any time, 1044
when or where pesticides are being applied to determine if the 1045
applicator is or should be ~~certified or licensed,~~ or if proper 1046
notice has been given before pesticide application, and to collect 1047
samples of pesticides being applied or available for use, ~~and to~~ 1048
~~inspect equipment or devices used to apply pesticides;~~ 1049

(3) Enter upon any public or private premises at reasonable 1050
hours to inspect any property thereon, or to collect samples of 1051
vegetation or animal life, water, soil, or other matter, in order 1052
to determine residue levels, efficacy of application, or adverse 1053
effects of application, drift, or spillage; 1054

(4) Should the director be denied access to any premises 1055
where such access is sought for the purposes set forth in this 1056
section, ~~he may~~ apply to any court of competent jurisdiction for a 1057
search warrant authorizing access to such land for ~~said~~ those 1058
purposes. The court may, upon such application, issue the search 1059
warrant for the purposes requested. 1060

(B) When the director or ~~his~~ the director's authorized agent 1061

observes, or has reasonable cause to believe that a piece of 1062
equipment used by a ~~custom~~ commercial applicator ~~or operator~~, a 1063
private applicator, or any other individual requires calibration, 1064
adjustment, or repair to enable it to perform satisfactorily, ~~he~~ 1065
the director may require such adjustment to be made immediately or 1066
issue a "stop operation" order pending repair to the equipment and 1067
~~he~~ the director may require a demonstration of it before 1068
cancellation or withdrawal of the stop operation order. 1069

(C) The director or the director's authorized agent may: 1070

(1) Issue an order to the owner or custodian of any lot of 1071
pesticide or a device requiring it to be held at a designated 1072
place when the director or the director's authorized agent has 1073
reasonable cause to believe that the pesticide or device has been 1074
distributed, stored, transported, or used in violation of ~~sections~~ 1075
~~921.01 to 921.29 of the Revised Code~~ this chapter, or any rule 1076
adopted thereunder. The pesticide or device shall be held until a 1077
release in writing is issued by the director, the director's 1078
authorized agent, or ~~by~~ a court order. No release shall be issued 1079
until ~~sections 921.01 to 921.29 of the Revised Code~~, this chapter 1080
and the rules adopted thereunder are complied with. 1081

(2) If the owner or custodian is not available for service of 1082
the order upon ~~him~~ the owner or custodian, ~~the director may~~ attach 1083
the order to the pesticide or device and notify the owner or 1084
custodian, and the registrant. 1085

Sec. ~~921.08~~ 921.19. (A) Every state agency, municipal 1086
corporation, and ~~every~~ other governmental agency and political 1087
subdivision is subject to ~~sections 921.01 to 921.29 of the Revised~~ 1088
~~Code~~ this chapter and the rules adopted thereunder with respect to 1089
the application, handling, and use of pesticides. 1090

(B) ~~No individual shall act as a public operator without~~ 1091
~~having a public operator license issued by the director of~~ 1092

agriculture. Licenses shall be issued for a period of time 1093
established by rule and shall be renewed in accordance with 1094
deadlines established by rule. The director shall by rule 1095
classify, by categories, licenses to be issued under this section. 1096

(C) An individual shall apply to the director for a public 1097
operator license on a form prescribed by the director. Each 1098
application for a license shall state the license category or 1099
categories for which the applicant is applying, and any other 1100
information that the director determines essential to the 1101
administration of sections 921.01 to 921.29 of the Revised Code. 1102

(D) After finding that the applicant is qualified, upon 1103
payment of a twenty-dollar license fee per year, the director 1104
shall issue a public operator license, limited to the category for 1105
which the applicant is qualified. The license and renewal fee does 1106
not apply to any applicant who is an employee of the department of 1107
agriculture. If a license is not issued or renewed, the fee 1108
submitted shall be retained by the state as payment for reasonable 1109
expenses of processing the application. Public operators, upon 1110
obtaining a valid license under this section, are certified 1111
applicators for the purpose of applying or directly supervising 1112
the use of restricted use pesticides pertinent to their respective 1113
categories Each state agency, municipal corporation, and other 1114
governmental agency and political subdivision is responsible for 1115
the acts of each of its employees in the application, handling, 1116
and use of pesticides. 1117

Sec. 921.151 921.22. The pesticide program fund is hereby 1118
created in the state treasury. All money in the fund shall be used 1119
to carry out the purposes of this chapter. The fund shall consist 1120
of fees collected under sections 921.01 to 921.15 of the Revised 1121
Code and all fines, penalties, costs, and damages, except court 1122
costs, ~~which~~ that are collected by either the director of 1123

agriculture or the attorney general in consequence of any 1124
violation of ~~sections 921.01 to 921.29 of the Revised Code. Not~~ 1125
~~later than the thirtieth day of June of each year, the director of~~ 1126
~~budget and management shall determine whether the amount credited~~ 1127
~~to the pesticide program fund is in excess of the amount necessary~~ 1128
~~to meet the expenses of the director of agriculture in~~ 1129
~~administering this chapter and shall transfer any excess from the~~ 1130
~~pesticide program fund to the general revenue fund this chapter.~~ 1131

Sec. 921.24 921.23. The director of agriculture may suspend, 1132
~~pending inquiry prior to a hearing,~~ for not longer than ten days, 1133
~~and, after the opportunity for hearing, may deny, suspend, revoke,~~ 1134
~~refuse to renew, or modify any provision of any license, permit,~~ 1135
~~or certification registration issued pursuant to this chapter if~~ 1136
~~he the director finds that the applicant or the holder of a~~ 1137
license, permit, or ~~certificate registration~~ is no longer 1138
qualified, has violated any provision of this chapter or rules 1139
adopted under it, has been found guilty of violating the ~~Federal~~ 1140
~~Insecticide, Fungicide and Rodenticide Act~~ federal act, or has 1141
been convicted of a misdemeanor involving moral turpitude or of a 1142
felony. 1143

Sec. 921.25 921.24. ~~It is unlawful for any No person to shall~~ 1144
do any of the following: 1145

(A) Apply, use, directly supervise such application or use, 1146
or recommend a pesticide for use inconsistent with ~~its~~ the 1147
pesticide's labeling, treatment standards, or other restrictions 1148
imposed by the director of agriculture; 1149

(B) ~~Except as provided in division (C) of this section, use~~ 1150
~~any pesticide Act as a commercial applicator~~ without being 1151
licensed or certified to do so ~~or being a trained serviceman under~~ 1152
~~the direct supervision of a commercial applicator or limited~~ 1153
~~commercial applicator;~~ 1154

(C) Use any restricted use pesticide, unless ~~certified the~~ 1155
~~person is licensed~~ to do so, ~~acting as a trained serviceman under~~ 1156
~~the direct supervision of a commercial applicator or limited~~ 1157
~~commercial applicator,~~ is a trained serviceperson acting under the 1158
direct supervision of a commercial applicator, or ~~acting as is~~ an 1159
~~employee or immediate family member~~ or a subordinate employee of a 1160
private applicator under the direct supervision of that private 1161
applicator; 1162

(D) Refuse or fail to keep ~~and or~~ or maintain records required 1163
by the director in rules ~~he adopts~~ adopted under ~~sections 921.01~~ 1164
~~to 921.29 of the Revised Code~~ this chapter, or to make reports 1165
when and as required by the director in rules ~~he adopts~~ adopted 1166
under ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter; 1167

(E) Falsely or fraudulently represent the effect of 1168
pesticides or methods to be utilized; 1169

(F) Apply known ineffective or improper materials; 1170

(G) Operate in a negligent manner, which includes the 1171
operation of faulty or unsafe equipment; 1172

(H) Impersonate any federal, state, county, or municipal 1173
official; 1174

(I) Make false or fraudulent records, invoices, or reports; 1175

(J) ~~Directly supervise the use of any restricted use~~ 1176
~~pesticide on the property of another without having a certified~~ 1177
~~applicator in~~ Fail to provide training to trained servicepersons 1178
in the application of pesticides; 1179

(K) Fail to provide direct supervision as specified in rules 1180
adopted under division (C) of section 921.16 of the Revised Code; 1181

~~(K) Directly supervise the use of any general use pesticide~~ 1182
~~on the property of another without having a licensed applicator in~~ 1183
~~direct supervision~~ 1184

<u>(L) Distribute a misbranded or adulterated pesticide;</u>	1185
(L) <u>(M) Use fraud or misrepresentation in making application</u>	1186
for a license or certificate <u>registration</u> or renewal of a license	1187
or certificate <u>registration</u> ;	1188
(M) <u>(N) Refuse, fail, or neglect to comply with any limitation</u>	1189
or restriction of a license <u>or registration</u> issued pursuant to	1190
sections 921.01 to 921.29 of the Revised Code <u>under this chapter</u>	1191
or rules adopted thereunder;	1192
(N) <u>(O) Aid or abet a licensee or another person in violating</u>	1193
sections 921.01 to 921.29 of the Revised Code <u>this chapter</u> or	1194
rules adopted thereunder;	1195
(O) <u>(P) Make a false or misleading statement in an inspection</u>	1196
concerning any infestation of pests or the use of pesticides;	1197
(P) <u>(Q) Refuse or fail to comply with</u> sections 921.01 to	1198
921.29 of the Revised Code <u>this chapter</u> , the rules adopted	1199
thereunder, or with any lawful order of the director;	1200
(Q) <u>(R) Distribute restricted use pesticides to the ultimate</u>	1201
user or to an employee who is a commercial applicator at any time	1202
without a pesticide dealer's license or ;	1203
<u>(S) Distribute restricted use pesticides to an ultimate user</u>	1204
who is not a certified applicator licensed under sections 921.01	1205
to 921.29 <u>section 921.06, 921.08, or 921.11</u> of the Revised Code	1206
and rules adopted thereunder <u>under this chapter</u> ;	1207
(R) <u>(T) Use any pesticide that is under an experimental use</u>	1208
permit contrary to the provisions of such <u>the</u> permit;	1209
(S) <u>(U) Engage in fraudulent business practices in the</u>	1210
application of pesticides, when licensed as a custom applicator;	1211
(T) <u>(V) Dispose of any pesticide product or container in such</u>	1212
a manner as to have unreasonable adverse effects on the	1213
environment;	1214

~~(U)~~(W) Display any pesticide in any manner to produce 1215
unreasonable adverse effects on the environment, or to contaminate 1216
adjacent food, feed, or other products; 1217

~~(V)~~(X) Apply any pesticide by aircraft without being licensed 1218
as a commercial applicator; 1219

(Y) Distribute a pesticide that is not registered with the 1220
director; 1221

(Z) Fail to properly supervise a trained serviceperson. 1222

Sec. ~~921.26~~ 921.25. (A)(1) Whenever the director of of 1223
agriculture has cause to believe that any person has violated, or 1224
is violating, ~~sections 921.01 to 921.29 of the Revised Code,~~ this 1225
chapter or any rule or order adopted or issued under ~~those~~ 1226
~~sections it,~~ he the director may conduct a hearing ~~which shall be~~ 1227
in accordance with Chapter 119. of the Revised Code to determine 1228
whether a violation has occurred. ~~The~~ Except as otherwise provided 1229
in division (A)(3) of this section, the director shall assess a 1230
civil penalty against any person who violates ~~sections 921.01 to~~ 1231
~~921.29 of the Revised Code,~~ this chapter or any rule or order 1232
adopted or issued under ~~those sections,~~ it in accordance with the 1233
schedule of civil penalties established in rules adopted under 1234
division ~~(A)~~(B) of section 921.16 of the Revised Code. Each day a 1235
violation continues constitutes a separate and distinct violation. 1236

(2) In addition, ~~the director may assess a civil penalty~~ 1237
~~against any employer of a person who violates sections 921.01 to~~ 1238
~~921.29 of the Revised Code, or any rule or order adopted or issued~~ 1239
~~under those sections, for the same violation for which he fines~~ 1240
~~the employee, if one of the following applies:~~ 1241

~~(a) With prior knowledge of the employee's act or omission~~ 1242
~~which constitutes the violation, the employer authorizes,~~ 1243
~~approves, or otherwise actively participates in the act or~~ 1244

omission; 1245

~~(b) After the occurrence of the employee's act or omission that constitutes the violation, the employer, with full knowledge of the act or omission, ratifies it;~~ 1246
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~~(c) The employer had knowledge that the act or omission of the employee that constitutes the violation would occur to assessing a civil penalty under division (A)(1) of this section, the director may deny, modify, suspend, revoke, or refuse to renew a license, permit, or registration issued under this chapter.~~ 1249
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(3) The civil penalty authorized under division (A)(1) of this section may be assessed against the employer of a person who violates this chapter or any rule adopted or order issued under it rather than against the person. 1254
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Divisions (A)(1) ~~and~~, (2), and (3) of this section do not affect, and shall not be construed as affecting, any other civil or criminal liability of the employee or the employer that may arise in consequence of the employer's or the employee's violation of this chapter or any other law. 1258
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~~(3)~~(4) If the person or employer ~~or employee~~ does not pay a civil penalty within a reasonable time after its assessment, the attorney general, upon the request of the director, shall bring a civil action to recover the amount of the penalty. 1263
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(B)(1) In lieu of conducting a hearing under division (A) of this section, the director may refer the violation to the attorney general who, except as otherwise provided in division (B)(2) of this section, may bring a civil action against any person who violates ~~sections 921.01 to 921.29 of the Revised Code, this chapter~~ or any rule or order adopted or issued under ~~those sections~~ it. If the court determines that a violation has occurred, the court shall order the person to pay a civil penalty for each violation, not to exceed five thousand dollars for a 1267
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first violation and not to exceed ten thousand dollars for each 1276
subsequent violation. Each day a violation continues shall 1277
~~constitute~~ constitutes a separate and distinct violation. 1278

~~(2) If the director refers a violation to the attorney 1279
general under division (B)(1) of this section, the attorney 1280
general, in addition, may bring a civil action against any 1281
employer of a person who violates sections 921.01 to 921.29 of the 1282
Revised Code, or any rule or order adopted or issued under those 1283
sections. The court shall order the employer to pay a civil 1284
penalty for the same violation for which the court orders the 1285
employee to pay a civil penalty, if one of the following applies:~~ 1286

~~(a) With prior knowledge of the employee's act or omission 1287
which constitutes the violation, the employer authorizes, 1288
approves, or otherwise actively participates in the act or 1289
omission;~~ 1290

~~(b) After the occurrence of the employee's act or omission 1291
that constitutes the violation, the employer, with full knowledge 1292
of the act or omission, ratifies it;~~ 1293

~~(c) The employer had knowledge that the act or omission of 1294
the employee that constitutes the violation would occur The civil 1295
action authorized under division (B)(1) of this section may be 1296
brought against the employer of a person who violates this chapter 1297
or any rule adopted or order issued under it rather than against 1298
the person. 1299~~

Divisions (B)(1) and (2) of this section do not affect, and 1300
shall not be construed as affecting, any other civil or criminal 1301
liability of the employee or the employer ~~which~~ that may arise in 1302
consequence of the employer's or employee's violation of this 1303
chapter or any other law. 1304

(C) In addition to the remedies provided and irrespective of 1305
whether or not there exists an adequate remedy at law, the 1306

director may apply to the court of common pleas for a temporary or
permanent injunction or other appropriate relief against continued
violation of ~~sections 921.01 to 921.29 of the Revised Code~~ this
chapter.

(D) The remedies available to the director and to the
attorney general under ~~sections 921.01 to 921.29 of the Revised~~
~~Code~~ this chapter are cumulative and concurrent, and the exercise
of one remedy by either the director or the attorney general, or
by both, does not preclude or require the exercise of any other
remedy by the director, the attorney general, or a prosecutor as
defined in section 2935.01 of the Revised Code, except that no
person shall pay both a civil penalty under division (A) of this
section and a civil penalty under division (B) of this section for
the same violation.

(E) If a person violates this chapter or rules adopted under
it, both of the following apply:

(1) The person is liable for the violation.

(2) The employer of the person is liable for and may be
convicted of the violation if the person was acting on behalf of
the employer and was acting within the scope of the person's
employment.

Sec. ~~921.23~~ 921.26. (A) The penalties provided for violations
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter do
not apply to any of the following:

(1) Any carrier while lawfully engaged in transporting a
pesticide or device within this state, if that carrier, upon
request, permits the director of agriculture to copy all records
showing the transactions in the movement of the pesticides or
devices;

(2) Public officials of this state and the federal

government, other than ~~public operators~~ commercial applicators 1337
employed by the federal government, the state, or a political 1338
subdivision, while engaged in the performance of their official 1339
duties in administering state or federal pesticide laws or rules, 1340
or while engaged in pesticide research; 1341

(3) The manufacturer or shipper of a pesticide for 1342
experimental use only by or under supervision of an agency of this 1343
state or of the federal government authorized by law to conduct 1344
research in the field of pesticides, provided that the 1345
manufacturer or shipper is not required to obtain an experimental 1346
use permit from the United States environmental protection agency; 1347

(4) The manufacturer or shipper of a substance being tested 1348
in which its purpose only is to determine its value for pesticide 1349
purposes or to determine its toxicity or other properties, and 1350
from which the user does not expect to receive any benefit in pest 1351
control from its use; 1352

(5) Persons conducting laboratory research involving 1353
pesticides. 1354

(B) No pesticide or device shall be considered in violation 1355
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter when 1356
intended solely for export to a foreign country, and when prepared 1357
or packed according to the specifications or directions of the 1358
purchaser. If the pesticide or device is not so exported, ~~the~~ 1359
~~provisions of sections 921.01 to 921.29 of the Revised Code~~ apply 1360
this chapter applies. 1361

(C) No person who is licensed, regulated, or registered under 1362
section 921.02, ~~921.021~~, 921.03, 921.06, ~~921.07~~, 921.08, 921.09, 1363
921.11, ~~921.12~~, or 921.13, ~~or 921.15~~ of the Revised Code shall be 1364
required to obtain a license or permit to operate or to be 1365
otherwise regulated in such capacity by any local ordinance, or to 1366
meet any other condition except as otherwise provided by statute 1367

or rule of the United States or of this state. 1368

(D) Section ~~921.06~~ 921.09 of the Revised Code ~~relating to a~~ 1369
~~custom applicator~~ does not apply to an individual who uses only 1370
ground equipment for ~~himself~~ the individual or for ~~his~~ the 1371
individual's neighbors, provided that ~~he~~ the individual meets all 1372
of the following requirements: 1373

(1) Is ~~certified as a private applicator if he uses a~~ 1374
~~restricted use pesticide licensed under section 921.11 of the~~ 1375
Revised Code; 1376

(2) Operates farm property and operates and maintains 1377
pesticide application equipment primarily for ~~his~~ the individual's 1378
own use; 1379

(3) Is not regularly engaged in the business of applying 1380
pesticides for hire or does not publicly hold ~~himself~~ oneself out 1381
as a pesticide applicator; 1382

(4) Meets any other requirement established by rule. 1383

(E) ~~Sections~~ Section 921.06 ~~and 921.07~~ of the Revised Code 1384
relating to licenses and requirements for their issuance ~~do~~ does 1385
not apply to licensed physicians or veterinarians applying 1386
pesticides to ~~man~~ human beings or other animals during the normal 1387
course of their practice, provided that they are not regularly 1388
engaged in the business of applying pesticides for hire amounting 1389
to a principal or regular occupation or do not publicly hold 1390
themselves out as commercial applicators. 1391

Sec. 921.27. (A) If the director of agriculture has 1392
reasonable cause to believe that a pesticide or device is being 1393
distributed, stored, transported, or used in violation of ~~sections~~ 1394
~~921.01 to 921.29 of the Revised Code,~~ this chapter or of any of 1395
~~the prescribed~~ rules, it shall be subject to seizure on complaint 1396
of the director to a court of competent jurisdiction in the 1397

locality in which the pesticide or device is located. 1398

(B) If the article is condemned, it shall, after entry or 1399
decree, be disposed of by destruction or sale as the court may 1400
direct and the proceeds, if ~~such~~ the article is sold, less legal 1401
costs, shall be paid to the pesticide program fund created in 1402
section ~~921.151~~ 921.22 of the Revised Code. The article shall not 1403
be sold contrary to ~~the provisions~~ of this section. Upon payment 1404
of costs and execution and delivery of a good and sufficient bond 1405
conditioned that the article shall not be disposed of unlawfully, 1406
the court may direct that the article be delivered to the owner 1407
thereof for relabeling or reprocessing. 1408

Sec. 921.29. Fines, penalties, costs, and damages assessed 1409
against a person in consequence of violations of ~~sections 921.01~~ 1410
~~to 921.29 of the Revised Code~~ this chapter, as provided in 1411
~~sections 921.01 to 921.29 of the Revised Code~~ this chapter or any 1412
other section of the Revised Code, shall be a lien in favor of the 1413
state upon the real and personal property of the person, upon the 1414
filing of a judgment or an order of the director of agriculture 1415
with the county in which the real and personal property is 1416
located. The real and personal property of the person shall be 1417
liable to execution for the fines, penalties, costs, and damages 1418
by the attorney general, who shall deposit any proceeds from an 1419
execution upon the property in the pesticide program fund created 1420
in section ~~921.151~~ 921.22 of the Revised Code. 1421

Sec. 921.30. Nothing in this chapter or any rule adopted 1422
under it shall be construed to require the director of agriculture 1423
to report any findings to the appropriate prosecuting authority 1424
for proceedings in prosecution of, or issue any order or institute 1425
any enforcement procedure for, a violation of this chapter or a 1426
rule adopted under it whenever the director believes that the 1427
public interest will be best served by a suitable written notice 1428

of warning. A person who receives a written notice of warning may 1429
respond in writing to the notice. 1430

Sec. ~~921.30~~ 921.31. On receipt of a notice pursuant to 1431
section 3123.43 of the Revised Code, the director of agriculture 1432
shall comply with sections 3123.41 to 3123.50 of the Revised Code 1433
and any applicable rules adopted under section 3123.63 of the 1434
Revised Code with respect to a license, ~~certificate~~ registration, 1435
or permit issued pursuant to this chapter. 1436

Sec. 921.99. (A) Whoever violates ~~sections 921.01 to 921.29~~ 1437
~~of the Revised Code~~ this chapter or rules adopted under ~~those~~ 1438
~~sections~~ it, except division (G) or ~~(P)~~ (P) of section ~~921.25~~ 1439
921.24 of the Revised Code, is guilty of a misdemeanor of the 1440
second degree on a first offense and a misdemeanor of the first 1441
degree on a subsequent offense. 1442

(B) Whoever violates division (G) or ~~(P)~~ (P) of section 1443
~~921.25~~ 921.24 of the Revised Code is guilty of a misdemeanor of 1444
the first degree on a first offense and a felony of the fourth 1445
degree on each subsequent offense. 1446

(C) No recovery of damages shall be allowed from 1447
administrative action taken or for "stop sale, use, or removal" if 1448
the court finds that there was probable cause for ~~such~~ that 1449
action. 1450

Section 2. That existing sections 907.42, 921.01, 921.02, 1451
921.021, 921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 1452
921.151, 921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 1453
921.27, 921.29, 921.30, and 921.99 and sections 921.07 and 921.12 1454
of the Revised Code are hereby repealed. 1455