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Am. Sub. S. B. No. 217

SENATORS Mumper, Carnes, Harris

**REPRESENTATIVES Niehaus, Carmichael, Wolpert, Rhine, Flowers, Coates,
Young**

A B I L L

To amend section 921.021 and, on July 1, 2004, to 1
further amend section 921.021 and to amend sections 2
907.42, 921.01, 921.02, 921.06, 921.08, 921.09, 3
921.10, 921.11, 921.13, 921.14, 921.151, 921.16, 4
921.18, 921.22 to 921.27, 921.29, 921.30, and 5
921.99; to amend, on July 1, 2004, for the purpose 6
of adopting new section numbers as indicated in 7
parentheses, sections 921.021 (921.09), 921.08 8
(921.19), 921.09 (921.12), 921.151 (921.22), 921.22 9
(921.08), 921.23 (921.26), 921.24 (921.23), 921.25 10
(921.24), 921.26 (921.25), and 921.30 (921.31); to 11
enact, on July 1, 2004, new section 921.30; and to 12
repeal, on July 1, 2004, sections 921.07 and 921.12 13
of the Revised Code to revise the Pesticides Law. 14

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

Section 1. That section 921.021 of the Revised Code be 15
amended to read as follows: 16

Sec. 921.021. (A) No person shall own or operate a pesticide 17
application business without obtaining a license for each location 18

owned or operated by the person in the state from the director of 19
agriculture. Licenses shall be issued for a period of time 20
established by rule and shall be renewed in accordance with 21
deadlines established by rule. 22

(B) Any person who owns or operates a pesticide application 23
business outside of this state, but engages in the business of 24
applying pesticides to properties of another for hire in this 25
state, shall obtain a license for the person's principal 26
out-of-state location from the director. 27

(C) The person applying for a pesticide application business 28
license shall file a statement with the director, on a form 29
provided by the director, that shall include any information that 30
the director determines necessary and that the director requires 31
by rule. Each applicant shall pay a license fee of twenty dollars 32
per year for each pesticide application business license the 33
applicant is required to obtain. 34

(D) The owner or operator of a pesticide application business 35
shall employ at least one licensed custom applicator for each 36
pesticide application business location the owner or operator owns 37
or operates. 38

(E) The owner or operator of a pesticide application business 39
is responsible for the acts of each employee in the handling, 40
application, and use of pesticides and in the conducting of 41
diagnostic inspections. The pesticide application business license 42
is subject to denial, modification, suspension, or revocation 43
after a hearing for any violation of ~~sections 921.01 to 921.29 of~~ 44
~~the Revised Code, if it is determined that the owner or operator~~ 45
~~ratified or knowingly or negligently permitted any officer,~~ 46
~~employee, or agent to commit the violations~~ this chapter or any 47
rule adopted or order issued under it. The director ~~also~~ may levy 48
against the owner or operator any civil penalties authorized by 49

division (B) of section 921.16 of the Revised Code for any 50
violation of ~~sections 921.02 to 921.29 of the Revised Code for any~~ 51
~~violation of those sections~~ this chapter or any rule adopted or 52
order issued under it that is committed by the owner or operator 53
or ~~any~~ by the owner's or operator's officer, employee, or agent. 54
~~For purposes of this division, an owner or operator is deemed to~~ 55
~~have ratified violations committed by any officer, employee, or~~ 56
~~agent if collectively the officers, employees, or agents commit~~ 57
~~three violations of a high or moderate level of severity in~~ 58
~~accordance with established department enforcement guidelines that~~ 59
~~relate directly to the storage, preparation, handling,~~ 60
~~distribution, or application of pesticides, or any violation~~ 61
~~involving fraud, within a twenty-four-month period.~~ 62

(F) The director may deny a pesticide application business 63
license to any current owner, operator, officer, or agent whose 64
pesticide application business license has been revoked within the 65
previous thirty-six months. 66

(G) The director shall adopt any rules necessary to 67
administer and enforce this section. 68

Section 2. That existing section 921.021 of the Revised Code 69
is hereby repealed. 70

Section 3. That sections 907.42, 921.01, 921.02, 921.021, 71
921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 921.151, 72
921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 921.27, 73
921.29, 921.30, and 921.99 be amended, sections 921.021 (921.09), 74
921.08 (921.19), 921.09 (921.12), 921.151 (921.22), 921.22 75
(921.08), 921.23 (921.26), 921.24 (921.23), 921.25 (921.24), 76
921.26 (921.25), and 921.30 (921.31) be amended for the purpose of 77
adopting new section numbers as indicated in parentheses, and new 78
section 921.30 of the Revised Code be enacted to read as follows: 79

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.

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

(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.

(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.

(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.

(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. 111

(E) "Animal" means all vertebrate and invertebrate species, 112
including, but not limited to, ~~man~~ humans and other mammals, 113
birds, fish, and shellfish. 114

(F) "Authorized diagnostic inspection" means a diagnostic 115
inspection conducted by a commercial applicator in the 116
pesticide-use category in which the commercial applicator is 117
licensed under this chapter. 118

(G) "Beneficial insects" means those insects that, during 119
their life cycle, are effective pollinators of plants, are 120
parasites or predators of pests, or are otherwise beneficial. 121

~~(G)~~(H) "Brand" means any word, name, symbol, device, or any 122
combination thereof, that serves to distinguish the pesticide 123
manufactured or distributed by one person from that manufactured 124
or distributed by any other person. 125

~~(H) "Certification" means the recognition by a certifying 126
agency that a person is competent and authorized to use or 127
directly supervise the use of restricted use pesticides.~~ 128

(I) "~~Certified Pesticide applicator~~" means ~~an individual who 129
is certified by the director of agriculture to use or to directly 130
supervise the use of restricted use pesticides in categories 131
specified in the certification or for specific uses named in the 132
permit~~ a commercial applicator or a private applicator. 133

(J) "Private applicator" means an individual who is certified 134
licensed under section 921.11 of the Revised Code ~~and who uses or 135
directly supervises the use of any restricted use pesticide for 136
purposes of producing any agricultural commodity on property owned 137
or rented by him or his employer or, if applied without 138
compensation other than trading of personal services between 139
producers of agricultural commodities, on the property of another 140
person.~~ 141

(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 licensed under section 921.06 of the Revised Code to apply pesticides or to conduct authorized diagnostic inspections."~~ 142-151

(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.~~ 152-159

(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.~~ 160-162

(N) ~~"Custom applicator" means any individual who applies pesticides in this state for hire, but does not include any of the following:~~ 163-165

~~(1) A private applicator;~~ 166

~~(2) A public applicator;~~ 167

~~(3) A trained serviceman;~~ 168

~~(4) Limited commercial applicator.~~ 169

(O) ~~"Custom operator" means an individual, other than a trained serviceman, who may directly supervise a trained~~ 170-171

~~serviceman in activities that include recommending control,~~ 172
~~handling, mixing, and applying pesticides and the disposal of~~ 173
~~waste, excess materials, or containers.~~ 174

~~(P)~~ "Competent" means properly qualified ~~to perform the~~ 175
~~functions that are prescribed by the director of agriculture and~~ 176
~~under the federal act, and that are associated with pesticide~~ 177
application as evidenced by passing the general examination and 178
each applicable pesticide-use category examination for the 179
pesticide-use categories in which a person applies pesticides and, 180
in the case of a person who is a commercial applicator, conducts 181
diagnostic inspections and by meeting any other criteria 182
established by rule. 183

~~(Q)~~(M) "Federal act" means the "Federal Insecticide,
Fungicide and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A.
136, as amended. 184
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~~(R)~~(N) "Defoliant" means any substance or mixture of 187
substances intended for causing the leaves or foliage to drop from 188
a plant, with or without causing abscission. 189

~~(S)~~(O) "Desiccant" means any substance or mixture of 190
substances intended for artificially accelerating the drying of 191
plant tissue. 192

~~(T)~~(P) "Device" means any instrument or contrivance, other 193
than a firearm, that is intended for trapping, destroying, 194
repelling, or mitigating any pest or any other form of plant or 195
animal life, other than ~~man~~ human beings and other than bacteria, 196
virus, or other microorganism on or in living ~~man~~ human beings or 197
other living animals. "Device" does not include equipment used for 198
the application of pesticides when sold separately therefrom. 199

~~(U)~~(Q) "Direct supervision" means either of the following, as 200
applicable: 201

(1) Unless otherwise prescribed by its labeling, a pesticide 202

is considered to be applied under the direct supervision of a
~~commercial or limited~~ commercial applicator, if it is applied by a
trained ~~serviceman~~ serviceperson acting under the instructions and
control of a ~~commercial or limited~~ commercial applicator ~~who is~~
~~responsible for the actions of that trained serviceman and who is~~
~~available when needed, even though the commercial or limited~~
~~commercial applicator is not physically present at the time and~~
~~place the pesticide is applied;.~~

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

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

~~(W)~~(S) "Distribute" means to offer or hold for sale, sell,
barter, ship, deliver for shipment, or receive and, having so
received, to deliver or offer to deliver, pesticides in this
state. "Distribute" does not mean to hold for use, apply, or use
pesticides or dilutions of pesticides, except when a pesticide
dealer holds for use, applies, or uses pesticides or dilutions of
pesticides in the course of business with a commercial applicator
who is employed by that pesticide dealer.

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~~(X)~~(T) "Environment" includes water, air, land, and all 235
plants and ~~man~~ human beings and other animals living therein, and 236
the interrelationships that exist among them. 237

~~(Y)~~(U) "Fungus" means any nonchlorophyll-bearing thallophyte, 238
which is any nonchlorophyll-bearing plant of a lower order than 239
mosses and liverworts, as for example, rust, smut, mildew, mold, 240
yeast, and bacteria, except those on or in living ~~man~~ human beings 241
or other animals, or processed food, beverages, or 242
pharmaceuticals. 243

~~(Z)~~(V) "General use pesticide" means a pesticide that is 244
classified for general use under ~~provisions~~ of the federal act. 245

~~(AA)~~(W) "Ground equipment" means any device, other than 246
aircraft, used on land or water to apply pesticides in any form. 247

~~(BB)~~(X) "Immediate family" means a person's spouse residing 248
in the person's household, brothers and sisters of the whole or of 249
the half blood, children, including adopted children, parents, and 250
grandparents. 251

(Y) "Incidental use" or "incidentally use" means the 252
application of a general use pesticide on an occasional, isolated, 253
site-specific basis in order to avoid immediate personal harm. 254
"Incidental use" or "incidentally use" does not mean regular, 255
routine, or maintenance application of a general use pesticide. 256

(Z) "Inert ingredient" means an ingredient that is not 257
active. 258

~~(CC)~~(AA) "Ingredient statement" means a statement of the name 259
and percentage of each active ingredient, together with the total 260
percentage of inert ingredients. When the pesticide contains 261
arsenic in any form, the ingredient statement shall include 262
percentages of total and water soluble arsenic, each calculated as 263
elemental arsenic. 264

~~(DD)~~(BB) "Insect" means any of the numerous small 265
invertebrate animals generally having the body more or less 266
obviously segmented, for the most part belonging to the class 267
insecta, including, but not limited to, beetles, bugs, bees, and 268
flies, and to other allied classes of arthropods, including, but 269
not limited to, spiders, mites, ticks, centipedes, and wood lice. 270

~~(EE)~~(CC) "Integrated pest management" means a sustainable 271
approach to managing pests by combining biological, cultural, 272
physical, and chemical tools in a way that minimizes economic, 273
health, and environmental risks. 274

(DD) "Label" means the written, printed, or graphic matter 275
on, or attached to the pesticide or device, or any of its 276
containers or wrappers. 277

~~(FF)~~(EE) "Labeling" means all labels and other written, 278
printed, or graphic matter: 279

(1) Accompanying the pesticide product or device at any time; 280
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(2) To which reference is made on the label or in literature 282
accompanying the pesticide product or device, except when 283
accurate, nonmisleading reference is made to current official 284
publications of the United States environmental protection agency, 285
the United States department of agriculture or interior, the 286
United States department of health and human services, state 287
experiment stations, state agricultural colleges, or other similar 288
federal or state institutions or official agencies, authorized by 289
law to conduct research in the field of pesticides; 290

(3) Including all brochures, technical and sales bulletins, 291
and all advertising material. 292

~~(GG)~~(FF) "Licensure" includes certification as used in the 293
federal act. 294

(GG) "Misbranded" applies, if the conditions of either	295
division (GG)(1) or (2) of this section are satisfied as follows:	296
(1) To any pesticide or device, if at least one of the	297
following occurs:	298
(a) Its labeling bears any statement, design, or graphic	299
representation relative thereto or to its ingredients that is	300
false or misleading in any particular.	301
(b) It is an imitation of or is distributed under the name of	302
another pesticide or device.	303
(c) Any word, statement, or other information required to	304
appear on the label or labeling is not prominently placed thereon	305
with such conspicuousness, as compared with other words,	306
statements, designs, or graphic matter in the labeling, and in	307
such terms as to render it likely to be read and understood by the	308
ordinary individual under customary conditions of purchase and	309
use.	310
(2) To any pesticide, if at least one of the following	311
occurs:	312
(a) The labeling of a restricted use pesticide does not	313
contain a statement that it is a restricted use pesticide.	314
(b) The labeling accompanying it does not contain directions	315
for use that are necessary for effecting the purpose for which the	316
pesticide is intended and, if complied with, together with any	317
requirements imposed by the federal act, that are adequate to	318
protect the environment.	319
(c) The label does not bear all of the following:	320
(i) The name, brand, or trademark under which the pesticide	321
is distributed;	322
(ii) An ingredient statement on the part of the immediate	323
container and on the outside container and wrapper of the retail	324

package, if any, through which the ingredient statement on the
immediate container cannot be clearly read, which is presented or
displayed under customary conditions of purchase, provided that
the ingredient statement may appear prominently on another part of
the container as permitted by the amended federal act or by the
director;

(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;

(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;

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

(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.

(d) ~~That~~ The pesticide contains any substance or substances
in quantities highly toxic to ~~man~~ human beings unless the label
bears, in addition to other label requirements, all of the
following:

(i) The skull and crossbones;

(ii) The word "poison" in red prominently displayed on a
background of distinctly contrasting color;

(iii) A statement of an antidote or a practical or emergency
medical treatment, first aid or otherwise, in case of poisoning by
the pesticide.

(e) It is contained in a package or other container or 355
wrapping that does not conform to the standard established by the 356
administrator of the United States environmental protection 357
agency. 358

(HH) "Nematodes" means invertebrate animals of the phylum 359
nemathelminthes and class nematoda, which are unsegmented, round 360
worms with elongated, fusiform, or sac-like bodies covered with 361
cuticle, and that inhabit soil, water, plants, or plant parts and 362
also may be called nema or eel-worms. 363

~~(II) "Permit" means a certificate issued by the director of 364
agriculture authorizing the purchase or use of a pesticide. 365~~

~~(JJ)~~ "Pest" means a harmful, destructive, or nuisance insect, 366
fungus, rodent, nematode, bacterium, bird, snail, weed, or 367
parasitic plant or a harmful or destructive form of plant or 368
animal life or virus, or any plant or animal species that the 369
director declares to be a pest, except viruses, bacteria, or other 370
microorganisms on or in living animals, including ~~man~~ human 371
beings. 372

~~(KK)~~(JJ) "Pesticide" means any substance or mixture of 373
substances intended for either of the following: 374

(1) Preventing, destroying, repelling, or mitigating any 375
pest; 376

(2) Use as a plant regulator, defoliant, or desiccant. 377

"Pesticide" includes a pest monitoring system designated by 378
rule. 379

~~(LL)~~(KK) "Pesticide dealer" means any person who distributes 380
restricted use pesticides or pesticides whose uses or distribution 381
are further restricted by the director to the ultimate user or to 382
a commercial applicator who is employed by that pesticide dealer. 383

~~(MM)~~(LL) "Pesticide application business" means any location 384

~~that is used for the purpose of engaging in the business of~~ 385
~~applying a person who performs pesticide business activities.~~ 386

(MM) "Pesticide business activities" means any of the 387
following: 388

(1) The application of pesticides to the property of another 389
for hire, but does not mean any location that is used exclusively 390
to perform administrative or other functions not directly 391
connected with the storage, preparation, handling, or distribution 392
of the pesticides to be applied; 393

(2) The solicitation to apply pesticides; 394

(3) The conducting of authorized diagnostic inspections. 395

(NN) "Pesticide business registered location" means a 396
location at which pesticide business activities are conducted and 397
that is registered through the issuance of a license to a 398
pesticide business under section 921.09 of the Revised Code. 399

(OO) "Pesticide-use category" means a specialized field of 400
pesticide application or of diagnostic inspection as defined by 401
rule. 402

~~(NN)~~(PP) "Plant regulator" means any substance or mixture of 403
substances, intended, through physiological action, for 404
accelerating or retarding the growth or rate of maturation, or for 405
otherwise altering the behavior of plants or the produce thereof, 406
but ~~shall~~ does not include substances to the extent that they are 407
intended as plant nutrients, trace elements, nutritional 408
chemicals, plant inoculants, or soil amendments. 409

~~(OO)~~(QQ) "Product name" means a coined or specific 410
designation applied to an individual pesticide of a fixed 411
combination and derivation. 412

~~(PP)~~ "Public operator" means an individual who himself 413
applies, or directly supervises the application of pesticides by a 414

~~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)~~(RR) "Registrant" means a person who has registered a pesticide pursuant to sections 921.01 to 921.29 of the Revised Code under this chapter.

~~(RR)~~(SS) "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.

~~(SS)~~(TT) "Rule" means a rule adopted under section 921.16 of the Revised Code.

(UU) "Sell or sale" means exchange of ownership or transfer of custody.

~~(TT)~~(VV) "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.

~~(UU)~~(WW) "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.

~~(VV)~~(XX) "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, agency of the United States government, 446
state agency, or political subdivision who has been trained to 447
apply pesticides while under the direct supervision of a 448
commercial applicator. 449

~~(WW)~~(YY) "Weed" means any plant that grows where not wanted. 450

~~(XX)~~(ZZ) "Wildlife" means all living things that are neither 451
human, domesticated, ~~nor are~~ or pests, including, but not limited 452
to, mammals, birds, and aquatic life. 453

~~(YY)~~(AAA) "Trade secret" and "confidential business 454
information" mean any formula, plan, pattern, process, tool, 455
mechanism, compound, procedure, production date, or compilation of 456
information that is not patented, that is known only to certain 457
individuals within a commercial concern, and that gives its user 458
an opportunity to obtain ~~an~~ a business advantage over competitors 459
who do not know or use it. 460

Sec. 921.02. (A) ~~Each~~ No person shall distribute a pesticide 461
~~that is distributed~~ within this state ~~shall be~~ unless the 462
pesticide is registered with the director of agriculture ~~subject~~ 463
~~to sections 921.01 to 921.29 of the Revised Code~~ under this 464
chapter. Registrations shall be issued for a period of time 465
established by rule and shall be renewed in accordance with 466
deadlines established by rule. Registration is not required if a 467
pesticide is shipped from one plant or warehouse to another plant 468
or warehouse operated by the same person and used solely at that 469
plant or warehouse as a constituent part to make a pesticide that 470
is registered under ~~sections 921.01 to 921.29 of the Revised Code~~ 471
this chapter, or if the pesticide is distributed under the 472
provisions of an experimental use permit issued under section 473
921.03 of the Revised Code or an experimental use permit issued by 474
the United States environmental protection agency. 475

(B) The applicant for registration of a pesticide shall file 476

a statement with the director on a form provided by the director,
which shall include all of the following:

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

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

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

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

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

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

(E) The director may require any other information to be

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submitted with an application.

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Any applicant may designate any portion of the required registration information as a trade secret or confidential business information. Upon receipt of any required registration information designated as a trade secret or confidential business information, the director shall consider the designated information as confidential and shall not reveal or cause to be revealed any such designated information without the consent of the applicants, except to persons directly involved in the registration process described in this section or as required by law.

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

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(G) Provided that the state is ~~certified~~ authorized by the administrator of the United States environmental protection agency to register pesticides to meet special local needs, the director shall require the information set forth under divisions (B), (C), (D), and (E) of this section and shall register any such pesticide

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after determining that all of the following conditions are met: 540

(1) Its composition is such as to warrant the proposed claims 541
for it. 542

(2) Its labeling and other material required to be submitted 543
comply with the requirements of the federal act and of ~~sections~~ 544
~~921.01 to 921.29 of the Revised Code~~ this chapter, and rules 545
adopted thereunder. 546

(3) It will perform its intended function without 547
unreasonable adverse effects on the environment. 548

(4) When used in accordance with widespread and commonly 549
recognized practice, it will not generally cause unreasonable 550
adverse effects on the environment. 551

(5) The classification for general or restricted use is in 552
conformity with the federal act. 553

The director shall not make any lack of essentiality a 554
criterion for denying the registration of any pesticide. When two 555
pesticides meet the requirements of ~~this~~ division (G) of this 556
section, the director shall not register one in preference to the 557
other. 558

(H)(1) The director may refuse to register a pesticide if the 559
application for registration fails to comply with this section. 560

(2) The director may suspend or revoke a pesticide 562
registration after a hearing in accordance with Chapter 119. of 563
the Revised Code for a pesticide that fails to meet the claims 564
made for it on its label. 565

(3) The director may immediately suspend a pesticide 566
registration, prior to a hearing, when the director believes that 567
the pesticide poses an immediate hazard to human or animal health 568
or a hazard to the environment. Not later than fifteen days after 569

suspending the registration, the director shall determine whether
the pesticide poses such a hazard. If the director determines that
no hazard exists, the director shall lift the suspension of the
registration. If the director determines that a hazard exists, the
director shall revoke the registration in accordance with Chapter
119. of the Revised Code.

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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:

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

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(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;

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(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.

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(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:

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(i) Food service operations as defined in section 3717.01 of

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the Revised Code; 600

(ii) Retail food establishments as defined in section 3717.01 601
of the Revised Code; 602

(iii) Golf courses; 603

(iv) Rental properties of more than four apartment units at 604
one location; 605

(v) Hospitals or medical facilities as defined in section 606
3701.01 of the Revised Code; 607

(vi) Child day-care centers or school child day-care centers 608
as defined in section 5104.01 of the Revised Code; 609

(vii) Facilities owned or operated by a school district 610
established under Chapter 3311. of the Revised Code, including an 611
education service center, a community school established under 612
Chapter 3314. of the Revised Code, or a chartered or nonchartered 613
nonpublic school that meets minimum standards established by the 614
state board of education; 615

(viii) Wholesale food establishments as defined in section 616
3715.021 of the Revised Code; 617

(ix) Any other site designated by rule. 618

(e) Conduct authorized diagnostic inspections. 619

(2) Divisions (A)(1)(a) to (d) of this section do not apply 620
to an individual who is acting as a trained serviceperson under 621
the direct supervision of a commercial applicator. 622

(3) Licenses shall be issued for a period of time established 623
by rule and shall be renewed in accordance with deadlines 624
established by rule. The fee for each such license ~~is one hundred~~ 625
~~dollars per year to be submitted with the application shall be~~ 626
established by rule. If a license is not issued or renewed, the 627
application fee shall be retained by the state as payment for the 628

reasonable expense of processing the application. The director 629
shall by rule classify by ~~categories~~ pesticide-use category 630
licenses to be issued under this section. A single license may 631
include more than one pesticide-use category. No individual shall 632
be required to pay an additional license fee if the individual is 633
licensed for more than one category, ~~but the individual shall pay~~ 634
~~an additional license fee for each pesticide application business~~ 635
~~location for which the individual is the commercial applicator of~~ 636
~~record.~~ 637

The fee for each license or renewal does not apply to an 638
applicant who is an employee of the department of agriculture. 639

(B) Application for a ~~custom~~ commercial applicator license 640
shall be made on a form prescribed by the director. Each 641
application for a license shall state the ~~license~~ pesticide-use 642
category or categories of license for which the applicant is 643
applying and other information that the director determines 644
essential to the administration of ~~sections 921.01 to 921.29 of~~ 645
~~the Revised Code~~ this chapter. 646

(C) If the director finds that the applicant is ~~qualified~~ 647
competent to apply pesticides and conduct diagnostic inspections 648
and that the applicant has passed both the general examination and 649
each applicable pesticide-use category examination as required 650
under division (A) of section 921.12 of the Revised Code, the 651
director shall issue a ~~custom~~ commercial applicator license 652
limited to the pesticide-use category or categories for which the 653
applicant is ~~qualified~~. ~~Custom applicators, upon obtaining a valid~~ 654
~~license under this section, are certified applicators for the~~ 655
~~purpose of applying or directly supervising the use of restricted~~ 656
~~use pesticides pertinent to their respective categories~~ found to 657
be competent. If the director rejects an application, the director 658
may explain why the application was rejected, describe the 659
additional requirements necessary for the applicant to obtain a 660

license, and return the application. The applicant may resubmit 661
the application without payment of any additional fee. 662

(D)(1) A person who is a commercial applicator shall be 663
deemed to hold a private applicator's license for purposes of 664
applying pesticides on agricultural commodities that are produced 665
by the commercial applicator. 666

(2) A commercial applicator shall apply pesticides only in 667
the pesticide-use category or categories in which the applicator 668
is licensed under this chapter. 669

Sec. 921.22 921.08. ~~Nonresident custom applicators, custom~~ 670
~~operators, public operators, and limited commercial applicators,~~ 671
~~and nonresident private applicators~~ who are licensed in another 672
state having a state plan approved by the United States 673
environmental protection agency to operate in certain 674
pesticide-use categories may be issued a license by the director 675
of agriculture covering the same categories in this state without 676
a ~~categorical~~ pesticide-use category examination. However, such 677
nonresidents may be required to demonstrate their knowledge of ~~the~~ 678
~~laws~~ this chapter and rules of ~~this state~~ adopted under it by 679
submitting themselves to an examination covering ~~such laws~~ this 680
chapter and those rules ~~contained and promulgated under this~~ 681
~~chapter. A nonresident custom operator can be licensed in this~~ 682
~~state only if his supervisor or employer is also licensed in this~~ 683
~~state. Private applicators certified in another state may operate~~ 684
~~in Ohio as do resident private applicators without also being~~ 685
~~certified in Ohio, except that they may be required to demonstrate~~ 686
~~their knowledge of the laws and rules of this state. Licenses or~~ 687
~~certificates~~ issued pursuant to this section may be suspended or 688
~~issued~~ pursuant to this chapter, or upon suspension or revocation 689
of the license ~~or certificate~~ of another state or the federal 691
government supporting the issuance of ~~an Ohio a~~ license ~~or~~ 692

certificate issued under this section. 693

Sec. ~~921.021~~ 921.09. (A)(1) No person shall own or operate a 694
pesticide ~~application~~ business without obtaining a license for 695
~~each location owned or operated by the person in the state~~ from 696
the director of agriculture. Licenses shall be issued for a period 697
of time established by rule and shall be renewed in accordance 698
with deadlines established by rule. 699

(2) A person applying for a pesticide business license shall 700
register each location that is owned by the person and used for 701
the purpose of engaging in the pesticide business. 702

(B) Any person who owns or operates a pesticide ~~application~~ 703
business outside of this state, but engages in the business of 704
applying pesticides to properties of another for hire in this 705
state, shall obtain a license for the person's principal 706
out-of-state location from the director. In addition, the person 707
shall register each location that is owned by the person in this 708
state and used for the purpose of engaging in the pesticide 709
business. 710

(C)(1) The person applying for a pesticide ~~application~~ 711
business license shall file a statement with the director, on a 712
form provided by the director, that shall include ~~any~~ all of the 713
following: 714

(a) The address of the principal place of business of the 715
pesticide business; 716

(b) The address of each location that the person intends to 717
register under division (A)(2) or (B) of this section; 718

(c) Any other information that the director determines 719
necessary and that the director requires by rule. ~~Each~~ 720

(2) Each applicant shall pay a license fee ~~of twenty dollars~~ 721
~~per year for each pesticide application business license the~~ 722

~~applicant is required to obtain~~ established by rule for the 723
pesticide business plus an additional fee established by rule for 724
each pesticide business registered location specified in the 725
application. The license may be renewed upon payment of a renewal 726
fee established by rule plus an additional fee established by rule 727
for each pesticide business registered location. A copy of the 728
license shall be maintained and conspicuously displayed at each 729
such location. 730

(3) The issuance of a pesticide business license constitutes 731
registration of any pesticide business location identified in the 732
application under division (C)(1) of this section. 733

(4) The owner or operator of a pesticide business shall 734
notify the director not later than fifteen days after any change 735
occurs in the information required under division (C)(1)(a) or (b) 736
of this section. 737

(D) The owner or operator of a pesticide ~~application~~ business 738
shall employ at least one ~~licensed custom~~ commercial applicator 739
for each pesticide ~~application~~ business registered location the 740
owner or operator owns or operates. 741

(E) The owner or operator of a pesticide ~~application~~ business 742
is responsible for the acts of each employee in the handling, 743
application, and use of pesticides and in the conducting of 744
diagnostic inspections. The pesticide ~~application~~ business license 745
is subject to denial, modification, suspension, or revocation 746
after a hearing for any violation of this chapter or any rule 747
adopted or order issued under it. The director may levy against 748
the owner or operator any civil penalties authorized by division 749
(B) of section 921.16 of the Revised Code for any violation of 750
this chapter or any rule adopted or order issued under it that is 751
committed by the owner or operator or by the owner's or operator's 752
officer, employee, or agent. 753

(F) The director may modify a license issued under this 754

section by one of the following methods: 755

(1) Revoking a licensee's authority to operate out of a 756
particular pesticide business registered location listed under 757
division (C)(1)(b) of this section; 758

(2) Preventing a licensee from operating within a specific 759
pesticide-use category. 760

(G) The director may deny a pesticide application business 761
license to any current owner, operator, officer, or agent person 762
whose pesticide application business license has been revoked 763
within the previous thirty-six months. 764

~~(G) The director shall adopt any rules necessary to~~ 765
~~administer and enforce this section~~ (H) Each pesticide business 766
registered location that is owned by a pesticide business is 767
subject to inspection by the director. 768

Sec. 921.10. (A) The director of agriculture shall not issue 769
a pesticide ~~application~~ business license until the applicant has 770
submitted to the director an effective liability insurance policy 771
or such other evidence of financial responsibility as the director 772
determines necessary. The director shall establish by rule, in 773
accordance with Chapter 119. of the Revised Code, the amount and 774
condition of such liability insurance or other evidence of 775
financial responsibility required. Such requirements shall be 776
based upon the ~~category and operation of the applicant~~ 777
pesticide-use categories in which commercial applicators are 778
licensed to apply pesticides for the pesticide business. 779

~~(B) Should the evidence of financial responsibility expire~~ 781
~~without renewal prior to the expiration of the license, the~~ 782
~~license of the pesticide application business is automatically~~ 783
~~suspended.~~ 784

~~(C)~~ Should the evidence of financial responsibility furnished 785
become unsatisfactory, the pesticide ~~application~~ business shall 786
upon notice immediately execute evidence of financial 787
responsibility meeting the requirements of this section or 788
applicable rules, and should the pesticide ~~application~~ business 789
fail to do so, the director shall suspend the pesticide 790
~~application~~ business's license and give the business notice of 791
such suspension. 792

~~(D)~~(C) The licensee to whom a suspension order is issued 793
shall be afforded a hearing in accordance with Chapter 119. of the 794
Revised Code, after which the director shall reinstate or revoke 795
the suspended license. 796

~~(E)~~(D) Nothing in this chapter shall be construed to relieve 797
any person from liability for any damage to the person or lands of 798
another caused by the use of pesticides even though such use 799
conforms to the rules. 800

Sec. 921.11. (A)(1) No individual shall apply restricted use 801
pesticides unless the individual is one of the following: 802

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 803
of the Revised Code; 804

(b) ~~A private applicator certified~~ Licensed under division 805
(B) of this section; 806

(c) A trained ~~serviceman~~ serviceperson who is acting under 807
the direct supervision of a ~~commerical~~ commercial applicator ~~or~~ 808
~~limited commercial applicator~~; 809

(d) An ~~employee or~~ immediate family member or a subordinate 810
employee of a ~~certified~~ private applicator who is acting under the 811
direct supervision of that private applicator. 812

(2) No individual shall directly supervise the application of 813
a "restricted use pesticide" unless ~~he~~ the individual is one of 814

the following: 815

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 816
of the Revised Code; 817

(b) ~~A private applicator certified~~ Licensed under division 818
(B) of this section. 819

(B) The director of agriculture shall adopt rules to 820
establish standards and procedures for the ~~certification licensure~~ 821
of private applicators. An individual shall apply for 822
~~certification as~~ a private applicator license to the director, on 823
forms prescribed by the director. The individual shall include in 824
the application the pesticide-use category or categories of the 825
license for which the individual is applying and any other 826
information that the director determines is essential to the 827
administration of this chapter. The fee for each ~~certification is~~ 828
~~thirty dollars and the certification license shall be established~~ 829
by rule. Licenses shall be issued for a period is three years of 830
time established by rule and shall be renewed in accordance with 831
deadlines established by rule. If a ~~certification license~~ is not 832
issued or renewed, the state shall retain any fee submitted as 833
payment for reasonable expenses of processing the application. 834

(C) An individual who is licensed under this section shall 835
use or directly supervise the use of a restricted use pesticide 836
only for the purpose of producing agricultural commodities on 837
property that is owned or rented by the individual or the 838
individual's employer. 839

Sec. ~~921.09~~ 921.12. (A) The director of agriculture shall 840
require each applicant for a license under ~~sections~~ section 841
921.06, ~~921.07, 921.08, and 921.12~~ or 921.11 of the Revised Code 842
to be examined on the applicant's knowledge and competency in ~~the~~ 843
each of the following: 844

(1) This chapter and rules adopted under it; 845

(2) The proper use, handling, and application of pesticides 846
and, if the applicant is applying for a license under section 847
921.06 of the Revised Code, in the conducting of diagnostic 848
inspections in the pesticide-use categories for which the 849
applicant has applied. 850

(B) Each application for renewal of a license provided for in 851
section 921.06, ~~921.07, 921.08, or 921.12~~ of the Revised Code, 852
shall be filed prior to the deadline established by rule. If filed 853
~~thereafter~~ after the deadline, a penalty of fifty per cent shall 854
be assessed ~~the custom applicator and the custom operator~~ and 855
added to the original fee and shall be paid by the applicant 856
before the renewal license is issued. However, if a license ~~or~~ 857
~~certification~~ issued under section 921.06, ~~921.07, 921.08, or~~ 858
~~921.12~~ of the Revised Code is not renewed within one year of the 859
date of expiration, ~~then such~~ the licensee or certificate holder 860
shall be required to take another examination on this chapter and 861
rules adopted under it and on the proper use, handling, and 862
application of pesticides and the proper conducting of diagnostic 863
inspections in the pesticide-use categories for which the licensee 864
has been licensed. 865

(C) A person who fails to pass an examination under division 866
(A) or (B) of this section is not entitled to an adjudication 867
under Chapter 119. of the Revised Code for that failure. 868

(D) The holder of a ~~custom applicator license, custom~~ 869
~~operator license, limited commercial applicator license, or public~~ 870
~~operator license~~ may renew ~~such~~ the license within one year of the 871
date of expiration without re-examination unless the director 872
determines that a new examination is necessary to insure that the 873
holder continues to meet the requirements of changing technology 874
and to assure a continuing level of competence and ability to use 875
pesticides safely and properly. 876

~~(D)~~(E) The director shall determine when re-examination for 877

~~recertification of the renewal of licenses for private applicators~~ 878
is required to insure that private applicators continue to meet 879
the requirements of changing technology and to assure a continuing 880
level of competence and ability to use pesticides safely and 881
properly. 882

(F) Instead of requiring a commercial applicator or private 883
applicator to complete re-examination successfully under division 884
(D) or (E) of this section, the director may require, in 885
accordance with criteria established by rule, the commercial 886
applicator or private applicator to participate in training 887
programs that are designed to foster knowledge of new technology 888
and to ensure a continuing level of competence and ability to use 889
pesticides safely and properly. The director or the director's 890
representative may provide the training or may authorize a third 891
party to do so. In order for such authorization to occur, the 892
third party and its training program shall comply with standards 893
and requirements established by rule. 894

Sec. 921.13. (A) Any person who is acting in the capacity of 895
a pesticide dealer or who advertises or assumes to act as a 896
pesticide dealer at any time shall obtain a pesticide dealer 897
license from the director of agriculture. Licenses shall be issued 898
for a period of time established by rule and shall be renewed in 899
accordance with deadlines established by rule. A license is 900
required for each location or outlet within this state from which 901
the person distributes pesticides. 902

Any pesticide dealer who has no pesticide dealer outlets in 903
this state and who distributes restricted use pesticides directly 904
into this state shall obtain a pesticide dealer license from the 905
director for the pesticide dealer's principal out-of-state 906
location or outlet and for each sales person operating in the 907
state. 908

The applicant shall include a ~~twenty-five dollar~~ license fee 909
established by rule with the application for a license. The 910
application shall be made on a form prescribed by the director. 911

Each pesticide dealer shall submit records to the director of 912
all of the restricted use pesticides the pesticide dealer has 913
distributed, as specified by the director, and duplicate records 914
shall be retained by the pesticide dealer for a period of time 915
established by rules. 916

(B) This section does not apply to a ~~custom applicator who~~ 917
~~exclusively sells pesticides only as an integral part of the~~ 918
~~custom applicator's pesticide application business when the~~ 919
~~pesticides are dispensed only through equipment used for the~~ 920
~~pesticide application or to any federal, state, county, or~~ 921
municipal agency that provides pesticides for its own programs. 922

(C) Each licensed pesticide dealer is responsible for the 923
acts of each employee in the solicitation and sale of pesticides 924
and all claims and recommendations for use of pesticides. The 925
pesticide dealer's license is subject to denial, suspension, or 926
revocation after a hearing for any violation of ~~sections 921.01 to~~ 927
~~921.29 of the Revised Code~~ this chapter whether committed by the 928
pesticide dealer or by the pesticide dealer's officer, agent, or 929
employee. 930

Sec. 921.14. ~~(A) Each licensed custom applicator, limited~~ 931
commercial applicator, ~~and public operator~~ shall keep a record of 932
~~all~~ both of the following: 933

(1) All diagnostic inspections conducted to determine 934
infestations of pests as required by rules adopted under division 935
(C) of section 921.16 of the Revised Code; 936

(2) All pesticide applications made by him the applicator and 937
by any trained serviceperson acting under the applicator's direct 938

supervision as required by rules adopted under division (C) of 939
section 921.16 of the Revised Code ~~and maintain that record.~~ 940

Each commercial applicator shall submit copies of the records 941
required under division (A) of this section to the pesticide 942
business, other business, state agency, or political subdivision 943
that employs the commercial applicator. 944

(B) Each pesticide business, other business, state agency, or 945
political subdivision that receives copies of records under 946
division (A) of this section shall retain them for a period of 947
three years from the date of the pesticide application to which 948
that record refers or for any longer period that the director of 949
agriculture determines necessary time established by rule. 950

(C) Each certified private applicator shall keep a record of 951
all restricted use pesticide applications made by him the 952
applicator or under his the applicator's direct supervision as 953
required by rules adopted under division (C) of section 921.16 of 954
the Revised Code ~~and~~. In addition, each private applicator shall 955
maintain that the record for a period of three years from the date 956
of the restricted use pesticide application to which that record 957
refers or for any longer period that the director of agriculture 958
determines necessary. 959

~~Each licensed custom applicator or custom operator shall keep~~ 960
~~a record of all diagnostic inspections to determine infestations~~ 961
~~of pests and of all pest control services as required by rules~~ 962
~~adopted under division (C) of section 921.16 of the Revised Code,~~ 963
~~and maintain that record for a period of three years from the date~~ 964
~~of the inspection to which that record refers or for any longer~~ 965
~~period that the director determines necessary.~~ 966

Sec. 921.16. (A) The director of agriculture shall adopt 967
rules the director determines necessary for the effective 968
enforcement and administration of ~~sections 921.01 to 921.29 of the~~ 969

~~Revised Code~~ this chapter. The rules may relate to, but are not 970
limited to, the time, place, manner, and methods of application, 971
materials, and amounts and concentrations of application of 972
pesticides, may restrict or prohibit the use of pesticides in 973
designated areas during specified periods of time, and shall 974
encompass all reasonable factors that the director determines 975
necessary to minimize or prevent damage to the environment. In 976
addition, the rules shall establish the fees, deadlines, and time 977
periods for registration and, registration renewal, late 978
registration renewal, and failure to register under section 921.02 979
of the Revised Code~~7~~, and the fees, deadlines, and time periods for 980
licensure and license renewal under sections ~~921.021~~, 921.06, 981
~~921.07, 921.08, 921.12~~ 921.09, 921.11, and 921.13 of the Revised 982
Code, ~~and the deadlines for certification under section 921.11 of~~ 983
~~the Revised Code~~. The aggregate amount of the fees that initially 984
are established by rule after the effective date of this amendment 985
shall be designed to cover, but not exceed, the costs incurred by 986
the department of agriculture in administering this chapter. 987
Thereafter, the fees shall not be increased without the approval 988
of the general assembly. 989

(B) The director shall adopt rules that establish a schedule 990
of civil penalties for violations of ~~sections 921.01 to 921.29 of~~ 991
~~the Revised Code~~ this chapter, or any rule or order adopted or 992
issued under ~~those sections~~ it, provided that the civil penalty 993
for a first violation shall not exceed five thousand dollars and 994
the civil penalty for each subsequent violation shall not exceed 995
ten thousand dollars. In determining the amount of a civil penalty 996
for a violation, the director shall consider factors relevant to 997
the severity of the violation, including past violations and the 998
amount of actual or potential damage to the environment or to 999
human beings. 1000

(C) The director shall adopt rules that set forth the 1001

conditions under which the director:	1002
(1) Requires that notice or posting be given of a proposed application of a pesticide;	1003 1004
(2) Requires a permit to apply a restricted use pesticide;	1005
(3) Requires inspection, condemnation, or repair of equipment used to apply a pesticide;	1006 1007
(4) (3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of sections 921.01 to 921.29 of the Revised Code <u>this chapter</u> ;	1008 1009 1010
(5) (4) Requires safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;	1011 1012 1013
(6) (5) Ensures the protection of the health and safety of agricultural workers storing, handling, or applying pesticides, and all residents of agricultural labor camps, as that term is defined in section 3733.41 of the Revised Code, who are living or working in the vicinity of pesticide-treated areas;	1014 1015 1016 1017 1018
(7) (6) Requires a record to be kept of all pesticide applications made by each licensed custom applicator, limited commercial applicator, and public operator <u>and by any trained serviceperson acting under the commercial applicator's direct supervision</u> and of all restricted use pesticide applications made by each certified private applicator <u>and by any immediate family member or subordinate employee of that private applicator who is acting under the private applicator's direct supervision as required under section 921.14 of the Revised Code</u> ;	1019 1020 1021 1022 1023 1024 1025 1026 1027
(8) (7) Determines those the pesticide-use <u>categories of applicators who conduct diagnostic inspections that must be conducted by a commercial applicator</u> ;	1028 1029 1030
(8) <u>Requires a record to be kept of all diagnostic</u>	1031

inspections ~~or who offer pest control services that must be~~ 1032
~~performed~~ conducted by a ~~certified~~ each commercial applicator ~~and~~ 1033
~~for which written records are required~~ and by any trained service 1034
person. 1035

(D) The director shall prescribe standards for the 1036
~~certification~~ licensure of applicators of pesticides consistent 1037
with those prescribed by the federal act and the regulations 1038
adopted ~~thereunder~~ under it or prescribe standards that are more 1039
restrictive than those prescribed by the federal act and the 1040
regulations adopted under it. The standards may relate to the use 1041
~~and handling of pesticides or to the use and handling of the a~~ 1042
pesticide or ~~class of pesticide uses covered by the individual's~~ 1043
~~certification, and shall relate to the hazards involved and the~~ 1044
~~use experience~~ to an individual's pesticide-use category. 1045

The director shall take into consideration standards of the 1046
United States environmental protection agency. 1047

(E) The director may adopt rules setting forth the conditions 1048
under which the director will: 1049

(1) Collect and examine samples of pesticides or devices; 1050

(2) Specify classes of devices that shall be subject to this 1051
chapter; 1052

(3) Prescribe other necessary registration information. 1053

(F) The director may adopt rules ~~to designate~~ that do either 1054
or both of the following: 1055

(1) Designate, in addition to those restricted uses so 1056
classified by the administrator of the United States environmental 1057
protection agency, restricted uses of pesticides for the state or 1058
for designated areas within the state and, if the director 1059
considers it necessary, to further restrict such use; 1060

(2) Define what constitutes "acting under the instructions 1061

and control of a commercial applicator" as used in the definition 1062
of "direct supervision" in division (Q)(1) of section 921.01 of 1063
the Revised Code. In adopting a rule under division (F)(2) of this 1064
section, the director shall consider the factors associated with 1065
the use of pesticide in the various pesticide-use categories. 1066
Based on consideration of the factors, the director may define 1067
"acting under the instructions and control of a commercial 1068
applicator" to include communications between a commercial 1069
applicator and a trained serviceperson that are conducted via 1070
landline telephone or a means of wireless communication. Any rules 1071
adopted under division (F)(2) of this section shall be drafted in 1072
consultation with representatives of the pesticide industry. 1073
1074

(G) The Except as provided in division (D) of this section, 1075
the director shall not adopt any rule under sections 921.01 to 1076
921.29 of the Revised Code this chapter that meets either of the 1077
following: 1078

~~(1) Permits any pesticide use that is prohibited by the~~ 1079
~~federal act and regulations or orders issued thereunder;~~ 1080

~~(2) As to certified applicators of restricted use pesticides~~ 1081
~~as designated under the federal act, and rules adopted as to~~ 1082
~~experimental use permits as authorized by the federal act, is~~ 1083
~~inconsistent with the requirements of the federal act and~~ 1084
~~regulations adopted thereunder.~~ 1085

(H) The director, after notice and opportunity for hearing, 1086
may declare as a pest any form of plant or animal life, other than 1087
human beings and other than bacteria, viruses, and other 1088
microorganisms on or in living human beings or other living 1089
animals, that is injurious to health or the environment. 1090

(I) The director may make reports to the United States 1091
environmental protection agency, in the form and containing the 1092
information the agency may require. 1093

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency, necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies. ~~The director may develop and enter into cooperative agreements with other state agencies for the purpose of developing and implementing voluntary or mandatory pesticide management plans that are designed to prevent unreasonable adverse effects on human health and the environment.~~

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to

pass a re-examination. 1125

(3) Training requirements for a trained serviceperson. 1126

(L) The director shall adopt all rules under ~~sections 921.01~~ 1127
to ~~921.29~~ of the Revised Code this chapter in accordance with 1128
Chapter 119. of the Revised Code. 1129

Sec. 921.18. (A) The director of agriculture may: 1130

(1) ~~Enter upon~~ In order to determine compliance with this 1131
~~chapter and rules adopted under it,~~ enter any public or private 1132
~~premises or transport vehicles during regular business hours~~ in 1133
~~order to have access~~ to do any or all of the following: 1134

(a) ~~Inspect and copy books, accounts, pesticide application~~ 1135
~~records, contracts related to pesticide business activities, and~~ 1136
~~memoranda, pesticides, or devices, subject to the sections of the~~ 1137
~~law and the rules thereunder for the purpose of determining~~ 1138
~~pesticide applications, the financial responsibility of the~~ 1139
~~applicator, the documents;~~ 1140

(b) ~~Inspect the~~ storage or disposal of pesticides; ~~also, to~~ 1141
~~inspect~~ 1142

(c) ~~Inspect~~ and sample pesticides in storage or in use, ~~the~~ 1143
~~disposal of pesticides, to inspect;~~ 1144

(d) ~~Inspect~~ equipment or devices used to apply pesticides, 1145
~~and to make copies of records in conformity therewith;~~ 1146

(e) ~~Inspect~~ storage facilities and sites; 1147

(f) ~~Inspect~~ production areas of persons that manufacture 1148
~~pesticides for commercial purposes.~~ 1149

(2) Enter upon any public or private premises at any time, 1150
when or where pesticides are being applied to determine if the 1151
applicator is or should be ~~certified or licensed,~~ or if proper 1152
notice has been given before pesticide application, and to collect 1153

samples of pesticides being applied or available for use, ~~and to~~ 1154
~~inspect equipment or devices used to apply pesticides;~~ 1155

(3) Enter upon any public or private premises at reasonable 1156
hours to inspect any property thereon, or to collect samples of 1157
vegetation or animal life, water, soil, or other matter, in order 1158
to determine residue levels, efficacy of application, or adverse 1159
effects of application, drift, or spillage; 1160

(4) Should the director be denied access to any premises 1161
where such access is sought for the purposes set forth in this 1162
section, ~~he may~~ apply to any court of competent jurisdiction for a 1163
search warrant authorizing access to such land for ~~said those~~ 1164
purposes. The court may, upon such application, issue the search 1165
warrant for the purposes requested. 1166

(B) When the director or ~~his~~ the director's authorized agent 1167
observes, or has reasonable cause to believe that a piece of 1168
equipment used by a ~~custom commercial~~ applicator ~~or operator,~~ a 1169
private applicator, or any other individual requires calibration, 1170
adjustment, or repair to enable it to perform satisfactorily, ~~he~~ 1171
the director may require such adjustment to be made immediately or 1172
issue a "stop operation" order pending repair to the equipment and 1173
~~he~~ the director may require a demonstration of it before 1174
cancellation or withdrawal of the stop operation order. 1175

(C) The director or the director's authorized agent may: 1176

(1) Issue an order to the owner or custodian of any lot of 1177
pesticide or a device requiring it to be held at a designated 1178
place when the director or the director's authorized agent has 1179
reasonable cause to believe that the pesticide or device has been 1180
distributed, stored, transported, or used in violation of ~~sections~~ 1181
~~921.01 to 921.29 of the Revised Code~~ this chapter, or any rule 1182
adopted thereunder. The pesticide or device shall be held until a 1183
release in writing is issued by the director, the director's 1184
authorized agent, or ~~by~~ a court order. No release shall be issued 1185

until ~~sections 921.01 to 921.29 of the Revised Code,~~ this chapter 1186
and the rules adopted thereunder are complied with. 1187

(2) If the owner or custodian is not available for service of 1188
the order upon ~~him~~ the owner or custodian, ~~the director may~~ attach 1189
the order to the pesticide or device and notify the owner or 1190
custodian, and the registrant. 1191

(D)(1) The director shall establish standards governing the 1192
development and implementation of integrated pest management 1193
practices that are designed to prevent unreasonable adverse 1194
effects on human health and the environment. 1195

(2) The director may enter into cooperative agreements with 1196
other state agencies for the implementation of voluntary or 1197
mandatory integrated pest management practices. 1198

Sec. 921.08 921.19. (A) Every state agency, municipal 1199
corporation, and ~~every~~ other governmental agency and political 1200
subdivision is subject to ~~sections 921.01 to 921.29 of the Revised~~ 1201
~~Code~~ this chapter and the rules adopted thereunder with respect to 1202
the application, handling, and use of pesticides. 1203

~~(B) No individual shall act as a public operator without~~ 1204
~~having a public operator license issued by the director of~~ 1205
~~agriculture. Licenses shall be issued for a period of time~~ 1206
~~established by rule and shall be renewed in accordance with~~ 1207
~~deadlines established by rule. The director shall by rule~~ 1208
~~classify, by categories, licenses to be issued under this section.~~ 1209

~~(C) An individual shall apply to the director for a public~~ 1210
~~operator license on a form prescribed by the director. Each~~ 1211
~~application for a license shall state the license category or~~ 1212
~~categories for which the applicant is applying, and any other~~ 1213
~~information that the director determines essential to the~~ 1214
~~administration of sections 921.01 to 921.29 of the Revised Code.~~ 1215

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

Sec. ~~921.151~~ 921.22. The pesticide program fund is hereby created in the state treasury. All money in the fund shall be used to carry out the purposes of this chapter. The fund shall consist of fees collected under sections 921.01 to 921.15 of the Revised Code and all fines, penalties, costs, and damages, except court costs, ~~which~~ that are collected by either the director of agriculture or the attorney general in consequence of any violation of ~~sections 921.01 to 921.29~~ of the Revised Code. ~~Not later than the thirtieth day of June of each year, the director of budget and management shall determine whether the amount credited to the pesticide program fund is in excess of the amount necessary to meet the expenses of the director of agriculture in administering this chapter and shall transfer any excess from the pesticide program fund to the general revenue fund this chapter.~~

Sec. ~~921.24~~ 921.23. The director of agriculture may suspend, ~~pending inquiry~~ prior to a hearing, for not longer than ten days,

~~and, after the opportunity for hearing, may deny, suspend, revoke,~~ 1247
~~refuse to renew, or modify any provision of any license, permit,~~ 1248
~~or certification registration~~ issued pursuant to this chapter if 1249
~~he the director~~ finds that the applicant or the holder of a 1250
license, permit, or ~~certificate~~ registration is no longer 1251
qualified, has violated any provision of this chapter or rules 1252
adopted under it, has been found guilty of violating the ~~Federal~~ 1253
~~Insecticide, Fungicide and Rodenticide Act~~ federal act, or has 1254
been convicted of a misdemeanor involving moral turpitude or of a 1255
felony. 1256

Sec. 921.25 **921.24.** ~~It is unlawful for any~~ No person to shall 1257
do any of the following: 1258

(A) Apply, use, directly supervise such application or use, 1259
or recommend a pesticide for use inconsistent with ~~its~~ the 1260
pesticide's labeling, treatment standards, or other restrictions 1261
imposed by the director of agriculture; 1262

(B) ~~Except as provided in division (C) of this section, use~~ 1263
~~any pesticide Act as a commercial applicator~~ without being 1264
licensed or certified to do so ~~or being a trained serviceman under~~ 1265
~~the direct supervision of a commercial applicator or limited~~ 1266
~~commercial applicator;~~ 1267

(C) Use any restricted use pesticide, unless ~~certified the~~ 1268
person is licensed to do so, ~~acting as a trained serviceman under~~ 1269
~~the direct supervision of a commercial applicator or limited~~ 1270
~~commercial applicator,~~ is a trained serviceperson acting under the 1271
direct supervision of a commercial applicator, or ~~acting as is~~ an 1272
~~employee or immediate family member or a subordinate employee~~ of a 1273
private applicator under the direct supervision of that private 1274
applicator; 1275

(D) Refuse or fail to keep ~~and or~~ or maintain records required 1276
by the director in rules ~~he adopts~~ adopted under ~~sections 921.01~~ 1277

to 921.29 of the Revised Code <u>this chapter</u> , or to make reports	1278
when and as required by the director in rules he adopts <u>adopted</u>	1279
under sections 921.01 to 921.29 of the Revised Code <u>this chapter</u> ;	1280
(E) Falsely or fraudulently represent the effect of	1281
pesticides or methods to be utilized;	1282
(F) Apply known ineffective or improper materials;	1283
(G) Operate in a negligent manner, which includes the	1284
operation of faulty or unsafe equipment;	1285
(H) Impersonate any federal, state, county, or municipal	1286
official;	1287
(I) Make false or fraudulent records, invoices, or reports;	1288
(J) Directly supervise the use of any restricted use	1289
pesticide on the property of another without having a certified	1290
applicator in <u>Fail to provide training to trained servicepersons</u>	1291
<u>in the application of pesticides</u> ;	1292
(K) <u>Fail to provide direct supervision as specified in rules</u>	1293
<u>adopted under division (C) of section 921.16 of the Revised Code</u> ;	1294
(K) Directly supervise the use of any general use pesticide	1295
on the property of another without having a licensed applicator in	1296
direct supervision	1297
(L) <u>Distribute a misbranded or adulterated pesticide</u> ;	1298
(L) (M) Use fraud or misrepresentation in making application	1299
for a license or certificate <u>registration</u> or renewal of a license	1300
or certificate <u>registration</u> ;	1301
(M) (N) Refuse, fail, or neglect to comply with any limitation	1302
or restriction of a license or <u>registration</u> issued pursuant to	1303
sections 921.01 to 921.29 of the Revised Code <u>under this chapter</u>	1304
or rules adopted thereunder;	1305
(N) (O) Aid or abet a licensee or another person in violating	1306

sections 921.01 to 921.29 of the Revised Code <u>this chapter</u> or	1307
rules adopted thereunder;	1308
(O)(P) Make a false or misleading statement in an inspection	1309
concerning any infestation of pests or the use of pesticides;	1310
(P)(Q) Refuse or fail to comply with sections 921.01 to	1311
921.29 of the Revised Code <u>this chapter</u> , the rules adopted	1312
thereunder, or with any lawful order of the director;	1313
(Q)(R) Distribute restricted use pesticides to the ultimate	1314
user or to an employee who is a commercial applicator at any time	1315
without a pesticide dealer's license or ;	1316
(S) <u>Except as provided in division (F) of section 921.26 of</u>	1317
<u>the Revised Code, distribute restricted use pesticides to an</u>	1318
ultimate user who is not a certified applicator licensed under	1319
sections 921.01 to 921.29 <u>section 921.06, 921.08, or 921.11</u> of the	1320
Revised Code and rules adopted thereunder <u>under this chapter</u> ;	1321
(R)(T) Use any pesticide that is under an experimental use	1322
permit contrary to the provisions of such <u>the</u> permit;	1323
(S)(U) Engage in fraudulent business practices in the	1324
application of pesticides, when licensed as a custom applicator;	1325
(T)(V) Dispose of any pesticide product or container in such	1326
a manner as to have unreasonable adverse effects on the	1327
environment;	1328
(U)(W) Display any pesticide in any manner to produce	1329
unreasonable adverse effects on the environment, or to contaminate	1330
adjacent food, feed, or other products;	1331
(V)(X) Apply any pesticide by aircraft without being licensed	1332
as a commercial applicator;	1333
(Y) <u>Distribute a pesticide that is not registered with the</u>	1334
<u>director</u> ;	1335
(Z) <u>Fail to properly supervise a trained serviceperson.</u>	1336

~~Sec. 921.26~~ 921.25. (A)(1) Whenever the director of of 1337
agriculture has cause to believe that any person has violated, or 1338
is violating, ~~sections 921.01 to 921.29 of the Revised Code,~~ this 1339
chapter or any rule or order adopted or issued under ~~those~~ 1340
~~sections it,~~ he the director may conduct a hearing ~~which shall be~~ 1341
in accordance with Chapter 119. of the Revised Code to determine 1342
whether a violation has occurred. ~~The~~ Except as otherwise provided 1343
in division (A)(3) of this section, ~~the~~ director shall assess a 1344
civil penalty against any person who violates ~~sections 921.01 to~~ 1345
~~921.29 of the Revised Code,~~ this chapter or any rule or order 1346
adopted or issued under ~~those sections,~~ it in accordance with the 1347
schedule of civil penalties established in rules adopted under 1348
division ~~(A)(B)~~ of section 921.16 of the Revised Code. Each day a 1349
violation continues constitutes a separate and distinct violation. 1350

(2) ~~In addition, the director may assess a civil penalty~~ 1351
~~against any employer of a person who violates sections 921.01 to~~ 1352
~~921.29 of the Revised Code, or any rule or order adopted or issued~~ 1353
~~under those sections, for the same violation for which he fines~~ 1354
~~the employee, if one of the following applies:~~ 1355

~~(a) With prior knowledge of the employee's act or omission~~ 1356
~~which constitutes the violation, the employer authorizes,~~ 1357
~~approves, or otherwise actively participates in the act or~~ 1358
~~omission;~~ 1359

~~(b) After the occurrence of the employee's act or omission~~ 1360
~~that constitutes the violation, the employer, with full knowledge~~ 1361
~~of the act or omission, ratifies it;~~ 1362

~~(c) The employer had knowledge that the act or omission of~~ 1363
~~the employee that constitutes the violation would occur~~ to 1364
assessing a civil penalty under division (A)(1) of this section, 1365
the director may deny, modify, suspend, revoke, or refuse to renew 1366
a license, permit, or registration issued under this chapter. 1367

(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. 1368
1369
1370
1371

Divisions (A)(1) ~~and~~, (2), and (3) of this section do not 1372
affect, and shall not be construed as affecting, any other civil 1373
or criminal liability of the employee or the employer that may 1374
arise in consequence of the employer's or the employee's violation 1375
of this chapter or any other law. 1376

~~(3)~~(4) If the person or employer ~~or employee~~ does not pay a 1377
civil penalty within a reasonable time after its assessment, the 1378
attorney general, upon the request of the director, shall bring a 1379
civil action to recover the amount of the penalty. 1380

(B)(1) In lieu of conducting a hearing under division (A) of 1381
this section, the director may refer the violation to the attorney 1382
general who, except as otherwise provided in division (B)(2) of 1383
this section, may bring a civil action against any person who 1384
violates ~~sections 921.01 to 921.29 of the Revised Code~~, this 1385
chapter or any rule or order adopted or issued under ~~those~~ 1386
~~sections~~ it. If the court determines that a violation has 1387
occurred, the court shall order the person to pay a civil penalty 1388
for each violation, not to exceed five thousand dollars for a 1389
first violation and not to exceed ten thousand dollars for each 1390
subsequent violation. Each day a violation continues ~~shall~~ 1391
~~constitute~~ constitutes a separate and distinct violation. 1392

~~(2) If the director refers a violation to the attorney~~ 1393
~~general under division (B)(1) of this section, the attorney~~ 1394
~~general, in addition, may bring a civil action against any~~ 1395
~~employer of a person who violates sections 921.01 to 921.29 of the~~ 1396
~~Revised Code, or any rule or order adopted or issued under those~~ 1397
~~sections. The court shall order the employer to pay a civil~~ 1398
~~penalty for the same violation for which the court orders the~~ 1399

~~employee to pay a civil penalty, if one of the following applies:~~ 1400

~~(a) With prior knowledge of the employee's act or omission 1401
which constitutes the violation, the employer authorizes, 1402
approves, or otherwise actively participates in the act or 1403
omission;~~ 1404

~~(b) After the occurrence of the employee's act or omission 1405
that constitutes the violation, the employer, with full knowledge 1406
of the act or omission, ratifies it;~~ 1407

~~(c) The employer had knowledge that the act or omission of 1408
the employee that constitutes the violation would occur The civil 1409
action authorized under division (B)(1) of this section may be 1410
brought against the employer of a person who violates this chapter 1411
or any rule adopted or order issued under it rather than against 1412
the person. 1413~~

Divisions (B)(1) and (2) of this section do not affect, and 1414
shall not be construed as affecting, any other civil or criminal 1415
liability of the employee or the employer ~~which~~ that may arise in 1416
consequence of the employer's or employee's violation of this 1417
chapter or any other law. 1418

(C) In addition to the remedies provided and irrespective of 1419
whether or not there exists an adequate remedy at law, the 1420
director may apply to the court of common pleas for a temporary or 1421
permanent injunction or other appropriate relief against continued 1422
violation of ~~sections 921.01 to 921.29 of the Revised Code~~ this 1423
chapter. 1424

(D) The remedies available to the director and to the 1425
attorney general under ~~sections 921.01 to 921.29 of the Revised 1426
Code~~ this chapter are cumulative and concurrent, and the exercise 1427
of one remedy by either the director or the attorney general, or 1428
by both, does not preclude or require the exercise of any other 1429
remedy by the director, the attorney general, or a prosecutor as 1430

defined in section 2935.01 of the Revised Code, except that no 1431
person shall pay both a civil penalty under division (A) of this 1432
section and a civil penalty under division (B) of this section for 1433
the same violation. 1434

(E) If a person violates this chapter or rules adopted under 1435
it, both of the following apply: 1436

(1) The person is liable for the violation. 1437

(2) The employer of the person is liable for and may be 1438
convicted of the violation if the person was acting on behalf of 1439
the employer and was acting within the scope of the person's 1440
employment. 1441

Sec. ~~921.23~~ 921.26. (A) The penalties provided for violations 1442
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter do 1443
not apply to any of the following: 1444

(1) Any carrier while lawfully engaged in transporting a 1445
pesticide or device within this state, if that carrier, upon 1446
request, permits the director of agriculture to copy all records 1447
showing the transactions in the movement of the pesticides or 1448
devices; 1449

(2) Public officials of this state and the federal 1450
government, other than ~~public operators~~ commercial applicators 1451
employed by the federal government, the state, or a political 1452
subdivision, while engaged in the performance of their official 1453
duties in administering state or federal pesticide laws or rules, 1454
or while engaged in pesticide research; 1455

(3) The manufacturer or shipper of a pesticide for 1456
experimental use only by or under supervision of an agency of this 1457
state or of the federal government authorized by law to conduct 1458
research in the field of pesticides, provided that the 1459
manufacturer or shipper is not required to obtain an experimental 1460

use permit from the United States environmental protection agency; 1461

(4) The manufacturer or shipper of a substance being tested 1462
in which its purpose only is to determine its value for pesticide 1463
purposes or to determine its toxicity or other properties, and 1464
from which the user does not expect to receive any benefit in pest 1465
control from its use; 1466

(5) Persons conducting laboratory research involving 1467
pesticides; 1468

(6) Persons who incidentally use pesticides. The incidental 1469
use shall involve only the application of general use pesticides. 1470
If a person incidentally uses a pesticide, the pesticide shall be 1471
applied in strict accordance with the manufacturer's label for 1472
general use purposes. If further applications are necessary 1473
following the incidental use application, a pesticide applicator 1474
shall apply the pesticide. 1475

(B) No pesticide or device shall be considered in violation 1476
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter when 1477
intended solely for export to a foreign country, and when prepared 1478
or packed according to the specifications or directions of the 1479
purchaser. If the pesticide or device is not so exported, ~~the 1480
provisions of sections 921.01 to 921.29 of the Revised Code apply 1481
this chapter applies.~~ 1482

(C) No person who is licensed, regulated, or registered under 1483
section 921.02, ~~921.021~~, 921.03, 921.06, ~~921.07~~, 921.08, 921.09, 1484
921.11, ~~921.12~~, or 921.13, ~~or 921.15~~ of the Revised Code shall be 1485
required to obtain a license or permit to operate or to be 1486
otherwise regulated in such capacity by any local ordinance, or to 1487
meet any other condition except as otherwise provided by statute 1488
or rule of the United States or of this state. 1489

(D) Section ~~921.06~~ 921.09 of the Revised Code ~~relating to a 1490
custom applicator~~ does not apply to an individual who uses only 1491

ground equipment for ~~himself~~ the individual or for ~~his~~ the
individual's neighbors, provided that ~~he~~ the individual meets all
of the following requirements:

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

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

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

(4) Meets any other requirement established by rule.

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

(F) Division (S) of section 921.24 of the Revised Code does
not apply to a pesticide dealer who distributes restricted use
pesticides to a nonresident who is licensed in another state
having a state plan approved by the United States environmental
protection agency.

Sec. 921.27. (A) If the director of agriculture has
reasonable cause to believe that a pesticide or device is being
distributed, stored, transported, or used in violation of ~~sections~~
~~921.01 to 921.29~~ of the Revised Code, this chapter or of any of

the ~~prescribed~~ rules, it shall be subject to seizure on complaint 1522
of the director to a court of competent jurisdiction in the 1523
locality in which the pesticide or device is located. 1524

(B) If the article is condemned, it shall, after entry or 1525
decree, be disposed of by destruction or sale as the court may 1526
direct and the proceeds, if ~~such~~ the article is sold, less legal 1527
costs, shall be paid to the pesticide program fund created in 1528
section ~~921.151~~ 921.22 of the Revised Code. The article shall not 1529
be sold contrary to ~~the provisions~~ of this section. Upon payment 1530
of costs and execution and delivery of a good and sufficient bond 1531
conditioned that the article shall not be disposed of unlawfully, 1532
the court may direct that the article be delivered to the owner 1533
thereof for relabeling or reprocessing. 1534

Sec. 921.29. Fines, penalties, costs, and damages assessed 1535
against a person in consequence of violations of ~~sections 921.01~~ 1536
~~to 921.29 of the Revised Code~~ this chapter, as provided in 1537
~~sections 921.01 to 921.29 of the Revised Code~~ this chapter or any 1538
other section of the Revised Code, shall be a lien in favor of the 1539
state upon the real and personal property of the person, upon the 1540
filing of a judgment or an order of the director of agriculture 1541
with the county in which the real and personal property is 1542
located. The real and personal property of the person shall be 1543
liable to execution for the fines, penalties, costs, and damages 1544
by the attorney general, who shall deposit any proceeds from an 1545
execution upon the property in the pesticide program fund created 1546
in section ~~921.151~~ 921.22 of the Revised Code. 1547

Sec. 921.30. Nothing in this chapter or any rule adopted 1548
under it shall be construed to require the director of agriculture 1549
to report any findings to the appropriate prosecuting authority 1550
for proceedings in prosecution of, or issue any order or institute 1551
any enforcement procedure for, a violation of this chapter or a 1552

rule adopted under it whenever the director believes that the 1553
public interest will be best served by a suitable written notice 1554
of warning. A person who receives a written notice of warning may 1555
respond in writing to the notice. 1556

Sec. ~~921.30~~ 921.31. On receipt of a notice pursuant to 1557
section 3123.43 of the Revised Code, the director of agriculture 1558
shall comply with sections 3123.41 to 3123.50 of the Revised Code 1559
and any applicable rules adopted under section 3123.63 of the 1560
Revised Code with respect to a license, ~~certificate~~ registration, 1561
or permit issued pursuant to this chapter. 1562

Sec. 921.99. (A) Whoever violates ~~sections 921.01 to 921.29~~ 1563
~~of the Revised Code~~ this chapter or rules adopted under ~~those~~ 1564
~~sections~~ it, except division (G) or ~~(O)~~ (P) of section ~~921.25~~ 1565
921.24 of the Revised Code, is guilty of a misdemeanor of the 1566
second degree on a first offense and a misdemeanor of the first 1567
degree on a subsequent offense. 1568

(B) Whoever violates division (G) or ~~(O)~~ (P) of section 1569
~~921.25~~ 921.24 of the Revised Code is guilty of a misdemeanor of 1570
the first degree on a first offense and a felony of the fourth 1571
degree on each subsequent offense. 1572

(C) No recovery of damages shall be allowed from 1573
administrative action taken or for "stop sale, use, or removal" if 1574
the court finds that there was probable cause for ~~such~~ that 1575
action. 1576

Section 4. That existing sections 907.42, 921.01, 921.02, 1577
921.021, 921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 1578
921.151, 921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 1579
921.27, 921.29, 921.30, and 921.99 and sections 921.07 and 921.12 1580
of the Revised Code are hereby repealed. 1581

Section 5. Sections 3 and 4 of this act shall take effect 1582
July 1, 2004. Before that date, the Director of Agriculture shall 1583
continue to issue custom applicator licenses under section 921.06, 1584
custom operator licenses under section 921.07, public operator 1585
licenses under section 921.08, and limited commercial applicator 1586
licenses under section 921.12 of the Revised Code. Those licenses 1587
shall continue to be valid until the date on which they expire 1588
regardless of whether the expiration date is on or after July 1, 1589
2004. On and after July 1, 2004, the Director shall cease to issue 1590
those licenses and instead shall issue commercial applicator 1591
licenses under section 921.06 of the Revised Code as amended by 1592
this act. 1593