

**As Reported by the House Agriculture and Natural Resources  
Committee**

**124th General Assembly  
Regular Session  
2001-2002**

**Sub. S. B. No. 217**

**SENATORS Mumper, Carnes, Harris  
REPRESENTATIVES Niehaus, Carmichael, Wolpert**

---

**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, section 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), and 921.26 (921.25), and 921.30 (921.31); 11  
to enact, on July 1, 2004, new section 921.30; and 12  
to repeal, on July 1, 2004, sections 921.07 and 13  
921.12 of the Revised Code to revise the Pesticides 14  
Law. 15

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

**Section 1.** That section 921.021 of the Revised Code be 16  
amended to read as follows: 17

**Sec. 921.021.** (A) No person shall own or operate a pesticide 18

## As Reported by the House Agriculture and Natural Resources Committee

application business without obtaining a license for each location 19  
owned or operated by the person in the state from the director of 20  
agriculture. Licenses shall be issued for a period of time 21  
established by rule and shall be renewed in accordance with 22  
deadlines established by rule. 23

(B) Any person who owns or operates a pesticide application 24  
business outside of this state, but engages in the business of 25  
applying pesticides to properties of another for hire in this 26  
state, shall obtain a license for the person's principal 27  
out-of-state location from the director. 28

(C) The person applying for a pesticide application business 29  
license shall file a statement with the director, on a form 30  
provided by the director, that shall include any information that 31  
the director determines necessary and that the director requires 32  
by rule. Each applicant shall pay a license fee of twenty dollars 33  
per year for each pesticide application business license the 34  
applicant is required to obtain. 35

(D) The owner or operator of a pesticide application business 36  
shall employ at least one licensed custom applicator for each 37  
pesticide application business location the owner or operator owns 38  
or operates. 39

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

As Reported by the House Agriculture and Natural Resources Committee

against the owner or operator any civil penalties authorized by 50  
 division (B) of section 921.16 of the Revised Code for any 51  
 violation of ~~sections 921.02 to 921.29 of the Revised Code for any~~ 52  
~~violation of those sections~~ this chapter or any rule adopted or 53  
order issued under it that is committed by the owner or operator 54  
 or any by the owner's or operator's officer, employee, or agent. 55  
~~For purposes of this division, an owner or operator is deemed to~~ 56  
~~have ratified violations committed by any officer, employee, or~~ 57  
~~agent if collectively the officers, employees, or agents commit~~ 58  
~~three violations of a high or moderate level of severity in~~ 59  
~~accordance with established department enforcement guidelines that~~ 60  
~~relate directly to the storage, preparation, handling,~~ 61  
~~distribution, or application of pesticides, or any violation~~ 62  
~~involving fraud, within a twenty-four month period.~~ 63

(F) The director may deny a pesticide application business 64  
 license to any current owner, operator, officer, or agent whose 65  
 pesticide application business license has been revoked within the 66  
 previous thirty-six months. 67

(G) The director shall adopt any rules necessary to 68  
 administer and enforce this section. 69

**Section 2.** That existing section 921.021 of the Revised Code 70  
 is hereby repealed. 71

**Section 3.** That sections 907.42, 921.01, 921.02, 921.021, 72  
 921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 921.151, 73  
 921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 921.27, 74  
 921.29, 921.30, and 921.99 be amended, sections 921.021 (921.09), 75  
 921.08 (921.19), 921.09 (921.12), 921.151 (921.22), 921.22 76  
 (921.08), 921.23 (921.26), 921.24 (921.23), 921.25 (921.24), 77  
 921.26 (921.25), and 921.30 (921.31) be amended for the purpose of 78  
 adopting new section numbers as indicated in parentheses, and new 79  
 section 921.30 of the Revised Code be enacted to read as follows: 80

## As Reported by the House Agriculture and Natural Resources Committee

81

**Sec. 907.42.** No person shall sell, distribute, or have in ~~his~~ the person's possession for sale, a poisonous seed treatment 82  
material in the state unless ~~such~~ the material meets the color 83  
standards or specifications that are established by the director 84  
of agriculture pursuant to section 907.43 of the Revised Code. 85  
Products sold and distributed as seed treatments shall conform to 86  
directions for use on labels accepted for registration under 87  
~~sections 921.11 to 921.20, inclusive,~~ Chapter 921. of the Revised 88  
Code, and the federal "Insecticide, Fungicide and Rodenticide 89  
Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, as amended. 90  
91

**Sec. 921.01.** As used in ~~sections 921.01 to 921.29 of the~~ 92  
~~Revised Code~~ this chapter: 93

(A) "Active ingredient" means any ingredient that will 94  
prevent, destroy, kill, repel, control, or mitigate any pest, or 95  
that will act as a plant regulator, defoliant, or desiccant. 96

(B) "Adulterated" shall apply to any pesticide if its 97  
strength or purity is less than or greater than the professed 98  
standard or quality as expressed on its labeling or under which it 99  
is sold, if any substance has been substituted wholly or in part 100  
for the pesticide, or if any valuable constituent of the pesticide 101  
has been wholly or in part abstracted. 102

(C) "Agricultural commodity" means any plant or part thereof 103  
or animal or animal product, produced for commercial use by a 104  
person, including farmers, ranchers, vineyardists, plant 105  
propagators, Christmas tree growers, aquaculturists, 106  
floriculturists, orchardists, foresters, or other comparable 107  
persons, primarily for the sale, consumption, propagation, or 108  
other use, by ~~man~~ humans or animals. 109

## As Reported by the House Agriculture and Natural Resources Committee

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

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

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

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

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

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

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

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

## As Reported by the House Agriculture and Natural Resources Committee

~~producers of agricultural commodities, on the property of another person.~~ 141  
142

(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."~~ 143  
144  
145  
146  
147  
148  
149  
150  
151  
152

(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.~~ 153  
154  
155  
156  
157  
158  
159  
160

(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.~~ 161  
162  
163

(N) ~~"Custom applicator" means any individual who applies pesticides in this state for hire, but does not include any of the following:~~ 164  
165  
166

~~(1) A private applicator;~~ 167

~~(2) A public applicator;~~ 168

~~(3) A trained serviceman;~~ 169

~~(4) Limited commercial applicator.~~ 170

## As Reported by the House Agriculture and Natural Resources Committee

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

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

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

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

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

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

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

## As Reported by the House Agriculture and Natural Resources Committee

applicable: 202

(1) Unless otherwise prescribed by its labeling, a pesticide 203  
 is considered to be applied under the direct supervision of a 204  
~~commercial or limited~~ commercial applicator, if it is applied by a 205  
 trained ~~serviceman~~ serviceperson acting under the instructions and 206  
 control of a ~~commercial or limited~~ commercial applicator ~~who is~~ 207  
~~responsible for the actions of that trained serviceman and who is~~ 208  
~~available when needed, even though the commercial or limited~~ 209  
~~commercial applicator is not physically present at the time and~~ 210  
~~place the pesticide is applied;.~~ 211

(2) Unless otherwise prescribed by its labeling, a restricted 212  
 use pesticide is considered to be applied under the direct 213  
 supervision of a private applicator, if it is applied by an 214  
~~employee or~~ immediate family member or a subordinate employee of 215  
 that private applicator acting under the instructions and control 216  
 of the private applicator, who is responsible for the actions of 217  
 that ~~employee or~~ immediate family member or subordinate employee 218  
 and who is available when needed, even though the private 219  
 applicator is not physically present at the time and place the 220  
 restricted use pesticide ~~handling activities are~~ application is 221  
 occurring. ~~Restricted use pesticide handling activities include~~ 222  
~~equipment calibration, mixing, loading, application, operator~~ 223  
~~safety, and disposal.~~ 224

~~(V)~~(R) "Directly supervise" means providing direct 225  
 supervision under division ~~(U)~~(Q)(1) or (2) or both of those 226  
 divisions of this section, as applicable. 227

~~(W)~~(S) "Distribute" means to offer or hold for sale, sell, 228  
 barter, ship, deliver for shipment, or receive and, having so 229  
 received, to deliver or offer to deliver, pesticides in this 230  
 state. "Distribute" does not mean to hold for use, apply, or use 231  
 pesticides or dilutions of pesticides, except when a pesticide 232  
 dealer holds for use, applies, or uses pesticides or dilutions of 233



## As Reported by the House Agriculture and Natural Resources Committee

pesticides in the course of business with a commercial applicator 234  
who is employed by that pesticide dealer. 235

~~(X)~~(T) "Environment" includes water, air, land, and all 236  
plants and ~~man~~ human beings and other animals living therein, and 237  
the interrelationships that exist among them. 238

~~(Y)~~(U) "Fungus" means any nonchlorophyll-bearing thallophyte, 239  
which is any nonchlorophyll-bearing plant of a lower order than 240  
mosses and liverworts, as for example, rust, smut, mildew, mold, 241  
yeast, and bacteria, except those on or in living ~~man~~ human beings 242  
or other animals, or processed food, beverages, or 243  
pharmaceuticals. 244

~~(Z)~~(V) "General use pesticide" means a pesticide that is 245  
classified for general use under ~~provisions~~ of the federal act. 246

~~(AA)~~(W) "Ground equipment" means any device, other than 247  
aircraft, used on land or water to apply pesticides in any form. 248

~~(BB)~~(X) "Immediate family" means a person's spouse residing 249  
in the person's household, brothers and sisters of the whole or of 250  
the half blood, children, including adopted children, parents, and 251  
grandparents. 252

(Y) "Incidental use" or "incidentally use" means the 253  
application of a general use pesticide on an occasional, isolated, 254  
site-specific basis in order to avoid immediate personal harm. 255  
"Incidental use" or "incidentally use" does not mean regular, 256  
routine, or maintenance application of a general use pesticide. 257

(Z) "Inert ingredient" means an ingredient that is not 258  
active. 259

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

## As Reported by the House Agriculture and Natural Resources Committee

elemental arsenic.	265
<del>(DD)</del> (BB) "Insect" means any of the numerous small	266
invertebrate animals generally having the body more or less	267
obviously segmented, for the most part belonging to the class	268
insecta, including, but not limited to, beetles, bugs, bees, and	269
flies, and to other allied classes of arthropods, including, but	270
not limited to, spiders, mites, ticks, centipedes, and wood lice.	271
<del>(EE)</del> (CC) <u>"Integrated pest management" means a sustainable</u>	272
<u>approach to managing pests by combining biological, cultural,</u>	273
<u>physical, and chemical tools in a way that minimizes economic,</u>	274
<u>health, and environmental risks.</u>	275
(DD) "Label" means the written, printed, or graphic matter	276
on, or attached to the pesticide or device, or any of its	277
containers or wrappers.	278
<del>(FF)</del> (EE) "Labeling" means all labels and other written,	279
printed, or graphic matter:	280
(1) Accompanying the pesticide product or device at any time;	281
	282
(2) To which reference is made on the label or in literature	283
accompanying the pesticide product or device, except when	284
accurate, nonmisleading reference is made to current official	285
publications of the United States environmental protection agency,	286
<u>the</u> United States department of agriculture or interior, the	287
United States department of health and human services, state	288
experiment stations, state agricultural colleges, or other similar	289
federal or state institutions or official agencies, authorized by	290
law to conduct research in the field of pesticides;	291
(3) Including all brochures, technical and sales bulletins,	292
and all advertising material.	293
<del>(GG)</del> (FF) <u>"Licensure" includes certification as used in the</u>	294
<u>federal act.</u>	295

## As Reported by the House Agriculture and Natural Resources Committee

(GG) "Misbranded" applies, if the conditions of either	296
division (GG)(1) or (2) of this section are satisfied as follows:	297
(1) To any pesticide or device, if at least one of the	298
following occurs:	299
(a) Its labeling bears any statement, design, or graphic	300
representation relative thereto or to its ingredients that is	301
false or misleading in any particular <del>+</del> .	302
(b) It is an imitation of or is distributed under the name of	303
another pesticide or device <del>+</del> .	304
(c) Any word, statement, or other information required to	305
appear on the label or labeling is not prominently placed thereon	306
with such conspicuousness, as compared with other words,	307
statements, designs, or graphic matter in the labeling, and in	308
such terms as to render it likely to be read and understood by the	309
ordinary individual under customary conditions of purchase and	310
use.	311
(2) To any pesticide, if at least one of the following	312
occurs:	313
(a) The labeling of a restricted use pesticide does not	314
contain a statement that it is a restricted use pesticide <del>+</del> .	315
(b) The labeling accompanying it does not contain directions	316
for use that are necessary for effecting the purpose for which the	317
pesticide is intended and, if complied with, together with any	318
requirements imposed by the federal act, that are adequate to	319
protect the environment <del>+</del> .	320
(c) The label does not bear all of the following:	321
(i) The name, brand, or trademark under which the pesticide	322
is distributed;	323
(ii) An ingredient statement on the part of the immediate	324
container and on the outside container and wrapper of the retail	325

## As Reported by the House Agriculture and Natural Resources Committee

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.

## As Reported by the House Agriculture and Natural Resources Committee

(e) It is contained in a package or other container or 356  
wrapping that does not conform to the standard established by the 357  
administrator of the United States environmental protection 358  
agency. 359

(HH) "Nematodes" means invertebrate animals of the phylum 360  
nemathelminthes and class nematoda, which are unsegmented, round 361  
worms with elongated, fusiform, or sac-like bodies covered with 362  
cuticle, and that inhabit soil, water, plants, or plant parts and 363  
also may be called nema or eel-worms. 364

~~(II) "Permit" means a certificate issued by the director of 365  
agriculture authorizing the purchase or use of a pesticide. 366~~

~~(JJ)~~ "Pest" means a harmful, destructive, or nuisance insect, 367  
fungus, rodent, nematode, bacterium, bird, snail, weed, or 368  
parasitic plant or a harmful or destructive form of plant or 369  
animal life or virus, or any plant or animal species that the 370  
director declares to be a pest, except viruses, bacteria, or other 371  
microorganisms on or in living animals, including ~~man~~ human 372  
beings. 373

~~(KK)~~~~(JJ)~~ "Pesticide" means any substance or mixture of 374  
substances intended for either of the following: 375

(1) Preventing, destroying, repelling, or mitigating any 376  
pest; 377

(2) Use as a plant regulator, defoliant, or desiccant. 378

"Pesticide" includes a pest monitoring system designated by 379  
rule. 380

~~(LL)~~~~(KK)~~ "Pesticide dealer" means any person who distributes 381  
restricted use pesticides or pesticides whose uses or distribution 382  
are further restricted by the director to the ultimate user or to 383  
a commercial applicator who is employed by that pesticide dealer. 384

~~(MM)~~~~(LL)~~ "Pesticide application business" means any location 385

## As Reported by the House Agriculture and Natural Resources Committee

~~that is used for the purpose of engaging in the business of~~ 386  
~~applying a person who performs pesticide business activities.~~ 387

(MM) "Pesticide business activities" means any of the 388  
following: 389

(1) The application of pesticides to the property of another 390  
~~for hire, but does not mean any location that is used exclusively~~ 391  
~~to perform administrative or other functions not directly~~ 392  
~~connected with the storage, preparation, handling, or distribution~~ 393  
~~of the pesticides to be applied;~~ 394

(2) The solicitation to apply pesticides; 395

(3) The conducting of authorized diagnostic inspections. 396

(NN) "Pesticide business registered location" means a 397  
location at which pesticide business activities are conducted and 398  
that is registered through the issuance of a license to a 399  
pesticide business under section 921.09 of the Revised Code. 400

(OO) "Pesticide-use category" means a specialized field of 401  
pesticide application or of diagnostic inspection as defined by 402  
rule. 403

~~(NN)~~(PP) "Plant regulator" means any substance or mixture of 404  
substances, intended, through physiological action, for 405  
accelerating or retarding the growth or rate of maturation, or for 406  
otherwise altering the behavior of plants or the produce thereof, 407  
but ~~shall~~ does not include substances to the extent that they are 408  
intended as plant nutrients, trace elements, nutritional 409  
chemicals, plant inoculants, or soil amendments. 410

~~(OO)~~(QQ) "Product name" means a coined or specific 411  
designation applied to an individual pesticide of a fixed 412  
combination and derivation. 413

~~(PP)~~ "Public operator" means an individual who himself 414  
applies, or directly supervises the application of pesticides by a 415

## As Reported by the House Agriculture and Natural Resources Committee

~~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

## As Reported by the House Agriculture and Natural Resources Committee

business, other business, agency of the United States government, 447  
state agency, or political subdivision who has been trained to 448  
apply pesticides while under the direct supervision of a 449  
commercial applicator. 450

~~(WW)~~(YY) "Weed" means any plant that grows where not wanted. 451

~~(XX)~~(ZZ) "Wildlife" means all living things that are neither 452  
human, domesticated, ~~nor are~~ or pests, including, but not limited 453  
to, mammals, birds, and aquatic life. 454

~~(YY)~~(AAA) "Trade secret" and "confidential business 455  
information" mean any formula, plan, pattern, process, tool, 456  
mechanism, compound, procedure, production date, or compilation of 457  
information that is not patented, that is known only to certain 458  
individuals within a commercial concern, and that gives its user 459  
an opportunity to obtain ~~an~~ a business advantage over competitors 460  
who do not know or use it. 461

**Sec. 921.02.** (A) ~~Each~~ No person shall distribute a pesticide 462  
~~that is distributed~~ within this state ~~shall be~~ unless the 463  
pesticide is registered with the director of agriculture ~~subject~~ 464  
~~to sections 921.01 to 921.29 of the Revised Code~~ under this 465  
chapter. Registrations shall be issued for a period of time 466  
established by rule and shall be renewed in accordance with 467  
deadlines established by rule. Registration is not required if a 468  
pesticide is shipped from one plant or warehouse to another plant 469  
or warehouse operated by the same person and used solely at that 470  
plant or warehouse as a constituent part to make a pesticide that 471  
is registered under ~~sections 921.01 to 921.29 of the Revised Code~~ 472  
this chapter, or if the pesticide is distributed under the 473  
provisions of an experimental use permit issued under section 474  
921.03 of the Revised Code or an experimental use permit issued by 475  
the United States environmental protection agency. 476

(B) The applicant for registration of a pesticide shall file 477



## As Reported by the House Agriculture and Natural Resources Committee

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

## As Reported by the House Agriculture and Natural Resources Committee

submitted with an application. 509

Any applicant may designate any portion of the required 510  
registration information as a trade secret or confidential 511  
business information. Upon receipt of any required registration 512  
information designated as a trade secret or confidential business 513  
information, the director shall consider the designated 514  
information as confidential and shall not reveal or cause to be 515  
revealed any such designated information without the consent of 516  
the applicants, except to persons directly involved in the 517  
registration process described in this section or as required by 518  
law. 519

(F) Each applicant shall pay a registration and inspection 520  
fee of ~~fifty dollars per year~~ established by rule for each product 521  
name and brand registered for the company whose name appears on 522  
the label. If an applicant files for a renewal of registration 523  
after the deadline established by rule, the applicant shall pay a 524  
penalty fee of ~~twenty-five dollars~~ established by rule for each 525  
product name and brand registered for the applicant. The penalty 526  
fee shall be added to the original fee and paid before the renewal 527  
registration is issued. In addition to any other remedy available 528  
under ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter, 529  
if a pesticide that is not registered pursuant to this section is 530  
distributed within this state, the person required to register the 531  
pesticide shall do so and shall pay a penalty fee of ~~twenty-five~~ 532  
~~dollars~~ established by rule for each product name and brand 533  
registered for the applicant. The penalty fee shall be added to 534  
the original fee and paid before the registration is issued. 535

(G) Provided that the state is ~~certified~~ authorized by the 536  
administrator of the United States environmental protection agency 537  
to register pesticides to meet special local needs, the director 538  
shall require the information set forth under divisions (B), (C), 539  
(D), and (E) of this section and shall register any such pesticide 540

## As Reported by the House Agriculture and Natural Resources Committee

after determining that all of the following conditions are met:	541
(1) Its composition is such as to warrant the proposed claims for it.	542 543
(2) Its labeling and other material required to be submitted comply with the requirements of the federal act and of <del>sections</del> <del>921.01 to 921.29 of the Revised Code</del> <u>this chapter</u> , and rules adopted thereunder.	544 545 546 547
(3) It will perform its intended function without unreasonable adverse effects on the environment.	548 549
(4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment.	550 551 552
(5) The classification for general or restricted use is in conformity with the federal act.	553 554
The director shall not make any lack of essentiality a criterion for denying the registration of any pesticide. When two pesticides meet the requirements of <del>this</del> <u>division (G) of this</u> <u>section</u> , the director shall not register one in preference to the other.	555 556 557 558 559
<u>(H)(1) The director may refuse to register a pesticide if the application for registration fails to comply with this section.</u>	560 561 562
<u>(2) The director may suspend or revoke a pesticide registration after a hearing in accordance with Chapter 119. of the Revised Code for a pesticide that fails to meet the claims made for it on its label.</u>	563 564 565 566
<u>(3) The director may immediately suspend a pesticide registration, prior to a hearing, when the director believes that the pesticide poses an immediate hazard to human or animal health or a hazard to the environment. Not later than fifteen days after</u>	567 568 569 570

As Reported by the House Agriculture and Natural Resources Committee

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.

571  
572  
573  
574  
575  
576

**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:~~

577  
578  
579  
580  
581  
582  
583

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

584  
585

(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;

586  
587  
588  
589  
590

(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.

591  
592  
593  
594  
595

(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:

596  
597  
598  
599

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

600

## As Reported by the House Agriculture and Natural Resources Committee

<u>the Revised Code;</u>	601
(ii) <u>Retail food establishments as defined in section 3717.01</u>	602
<u>of the Revised Code;</u>	603
(iii) <u>Golf courses;</u>	604
(iv) <u>Rental properties of more than four apartment units at</u>	605
<u>one location;</u>	606
(v) <u>Hospitals or medical facilities as defined in section</u>	607
<u>3701.01 of the Revised Code;</u>	608
(vi) <u>Child day-care centers or school child day-care centers</u>	609
<u>as defined in section 5104.01 of the Revised Code;</u>	610
(vii) <u>Facilities owned or operated by a school district</u>	611
<u>established under Chapter 3311. of the Revised Code, including an</u>	612
<u>education service center, a community school established under</u>	613
<u>Chapter 3314. of the Revised Code, or a chartered or nonchartered</u>	614
<u>nonpublic school that meets minimum standards established by the</u>	615
<u>state board of education;</u>	616
(viii) <u>Wholesale food establishments as defined in section</u>	617
<u>3715.021 of the Revised Code;</u>	618
(ix) <u>Any other site designated by rule.</u>	619
(e) <u>Conduct authorized diagnostic inspections.</u>	620
(2) <u>Divisions (A)(1)(a) to (d) of this section do not apply</u>	621
<u>to an individual who is acting as a trained serviceperson under</u>	622
<u>the direct supervision of a commercial applicator.</u>	623
(3) <u>Licenses</u> shall be issued for a period of time established	624
by rule and shall be renewed in accordance with deadlines	625
established by rule. The fee for each such license <del>is one hundred</del>	626
<del>dollars per year to be submitted with the application shall be</del>	627
<u>established by rule.</u> If a license is not issued or renewed, the	628
application fee shall be retained by the state as payment for <u>the</u>	629

## As Reported by the House Agriculture and Natural Resources Committee

reasonable expense of processing the application. The director 630  
shall by rule classify by ~~categories~~ pesticide-use category 631  
licenses to be issued under this section. A single license may 632  
include more than one pesticide-use category. No individual shall 633  
be required to pay an additional license fee if the individual is 634  
licensed for more than one category, ~~but the individual shall pay~~ 635  
~~an additional license fee for each pesticide application business~~ 636  
~~location for which the individual is the commercial applicator of~~ 637  
~~record.~~ 638

The fee for each license or renewal does not apply to an 639  
applicant who is an employee of the department of agriculture. 640

(B) Application for a ~~custom~~ commercial applicator license 641  
shall be made on a form prescribed by the director. Each 642  
application for a license shall state the ~~license~~ pesticide-use 643  
category or categories of license for which the applicant is 644  
applying and other information that the director determines 645  
essential to the administration of ~~sections 921.01 to 921.29 of~~ 646  
~~the Revised Code~~ this chapter. 647

(C) If the director finds that the applicant is ~~qualified~~ 648  
competent to apply pesticides and conduct diagnostic inspections 649  
and that the applicant has passed both the general examination and 650  
each applicable pesticide-use category examination as required 651  
under division (A) of section 921.12 of the Revised Code, the 652  
director shall issue a ~~custom~~ commercial applicator license 653  
limited to the pesticide-use category or categories for which the 654  
applicant is ~~qualified~~. ~~Custom applicators, upon obtaining a valid~~ 655  
~~license under this section, are certified applicators for the~~ 656  
~~purpose of applying or directly supervising the use of restricted~~ 657  
~~use pesticides pertinent to their respective categories~~ found to 658  
be competent. If the director rejects an application, the director 659  
may explain why the application was rejected, describe the 660  
additional requirements necessary for the applicant to obtain a 661

As Reported by the House Agriculture and Natural Resources Committee

license, and return the application. The applicant may resubmit the application without payment of any additional fee. 662 663

(D)(1) A person who is a commercial applicator shall be deemed to hold a private applicator's license for purposes of applying pesticides on agricultural commodities that are produced by the commercial applicator. 664 665 666 667

(2) A commercial applicator shall apply pesticides only in the pesticide-use category or categories in which the applicator is licensed under this chapter. 668 669 670

**Sec. 921.22 921.08.** ~~Nonresident custom applicators, custom operators, public operators, and limited commercial applicators, and nonresident private applicators~~ who are licensed in another state having a state plan approved by the United States environmental protection agency to operate in certain pesticide-use categories may be issued a license by the director of agriculture covering the same categories in this state without a ~~categorical~~ pesticide-use category examination. However, such nonresidents may be required to demonstrate their knowledge of ~~the laws this chapter and rules of this state adopted under it~~ by submitting themselves to an examination covering ~~such laws this chapter and those rules contained and promulgated under this chapter.~~ A nonresident custom operator can be licensed in this state only if his supervisor or employer is also licensed in this state. ~~Private applicators certified in another state may operate in Ohio as do resident private applicators without also being certified in Ohio, except that they may be required to demonstrate their knowledge of the laws and rules of this state.~~ Licenses or ~~certificates~~ issued pursuant to this section may be suspended or revoked in the same manner as other licenses or ~~certificates~~ issued pursuant to this chapter, or upon suspension or revocation of the license or ~~certificate~~ of another state or the federal government supporting the issuance of ~~an Ohio a~~ license or 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693

certificate issued under this section. 694

**Sec. ~~921.021~~ 921.09.** (A)(1) No person shall own or operate a 695  
pesticide ~~application~~ business without obtaining a license for 696  
~~each location owned or operated by the person in the state~~ from 697  
the director of agriculture. Licenses shall be issued for a period 698  
of time established by rule and shall be renewed in accordance 699  
with deadlines established by rule. 700

(2) A person applying for a pesticide business license shall 701  
register each location that is owned by the person and used for 702  
the purpose of engaging in the pesticide business. 703

(B) Any person who owns or operates a pesticide ~~application~~ 704  
business outside of this state, but engages in the business of 705  
applying pesticides to properties of another for hire in this 706  
state, shall obtain a license for the person's principal 707  
out-of-state location from the director. In addition, the person 708  
shall register each location that is owned by the person in this 709  
state and used for the purpose of engaging in the pesticide 710  
business. 711

(C)(1) The person applying for a pesticide ~~application~~ 712  
business license shall file a statement with the director, on a 713  
form provided by the director, that shall include ~~any~~ all of the 714  
following: 715

(a) The address of the principal place of business of the 716  
pesticide business; 717

(b) The address of each location that the person intends to 718  
register under division (A)(2) or (B) of this section; 719

(c) Any other information that the director determines 720  
necessary and that the director requires by rule. ~~Each~~ 721

(2) Each applicant shall pay a license fee ~~of twenty dollars~~ 722  
~~per year for each pesticide application business license the~~ 723



## As Reported by the House Agriculture and Natural Resources Committee

~~applicant is required to obtain~~ established by rule for the 724  
pesticide business plus an additional fee established by rule for 725  
each pesticide business registered location specified in the 726  
application. The license may be renewed upon payment of a renewal 727  
fee established by rule plus an additional fee established by rule 728  
for each pesticide business registered location. A copy of the 729  
license shall be maintained and conspicuously displayed at each 730  
such location. 731

(3) The issuance of a pesticide business license constitutes 732  
registration of any pesticide business location identified in the 733  
application under division (C)(1) of this section. 734

(4) The owner or operator of a pesticide business shall 735  
notify the director not later than fifteen days after any change 736  
occurs in the information required under division (C)(1)(a) or (b) 737  
of this section. 738

(D) The owner or operator of a pesticide ~~application~~ business 739  
shall employ at least one ~~licensed custom~~ commercial applicator 740  
for each pesticide ~~application~~ business registered location the 741  
owner or operator owns or operates. 742

(E) The owner or operator of a pesticide ~~application~~ business 743  
is responsible for the acts of each employee in the handling, 744  
application, and use of pesticides and in the conducting of 745  
diagnostic inspections. The pesticide ~~application~~ business license 746  
is subject to denial, modification, suspension, or revocation 747  
after a hearing for any violation of this chapter or any rule 748  
adopted or order issued under it. The director may levy against 749  
the owner or operator any civil penalties authorized by division 750  
(B) of section 921.16 of the Revised Code for any violation of 751  
this chapter or any rule adopted or order issued under it that is 752  
committed by the owner or operator or by the owner's or operator's 753  
officer, employee, or agent. 754

(F) The director may modify a license issued under this 755

section by one of the following methods: 756

(1) Revoking a licensee's authority to operate out of a particular pesticide business registered location listed under division (C)(1)(b) of this section; 757  
758  
759

(2) Preventing a licensee from operating within a specific pesticide-use category. 760  
761

(G) The director may deny a pesticide application business license to any current owner, operator, officer, or agent person whose pesticide application business license has been revoked within the previous thirty-six months. 762  
763  
764  
765

~~(G) The director shall adopt any rules necessary to administer and enforce this section~~ 766  
(H) Each pesticide business registered location that is owned by a pesticide business is subject to inspection by the director. 767  
768  
769

**Sec. 921.10.** (A) The director of agriculture shall not issue a pesticide application business license until the applicant has submitted to the director an effective liability insurance policy or such other evidence of financial responsibility as the director determines necessary. The director shall establish by rule, in accordance with Chapter 119. of the Revised Code, the amount and condition of such liability insurance or other evidence of financial responsibility required. Such requirements shall be based upon the ~~category and operation of the applicant~~ pesticide-use categories in which commercial applicators are licensed to apply pesticides for the pesticide business. 770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780

~~(B) Should the evidence of financial responsibility expire without renewal prior to the expiration of the license, the license of the pesticide application business is automatically suspended.~~ 781  
782  
783  
784  
785

## As Reported by the House Agriculture and Natural Resources Committee

~~(C)~~ Should the evidence of financial responsibility furnished 786  
 become unsatisfactory, the pesticide ~~application~~ business shall 787  
 upon notice immediately execute evidence of financial 788  
 responsibility meeting the requirements of this section or 789  
 applicable rules, and should the pesticide ~~application~~ business 790  
 fail to do so, the director shall suspend the pesticide 791  
~~application~~ business's license and give the business notice of 792  
 such suspension. 793

~~(D)~~(C) The licensee to whom a suspension order is issued 794  
 shall be afforded a hearing in accordance with Chapter 119. of the 795  
 Revised Code, after which the director shall reinstate or revoke 796  
 the suspended license. 797

~~(E)~~(D) Nothing in this chapter shall be construed to relieve 798  
 any person from liability for any damage to the person or lands of 799  
 another caused by the use of pesticides even though such use 800  
 conforms to the rules. 801

**Sec. 921.11.** (A)(1) No individual shall apply restricted use 802  
 pesticides unless the individual is one of the following: 803

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 804  
 of the Revised Code; 805

(b) ~~A private applicator certified~~ Licensed under division 806  
 (B) of this section; 807

(c) A trained ~~serviceman~~ serviceperson who is acting under 808  
 the direct supervision of a ~~commercial~~ commercial applicator ~~or~~ 809  
~~limited commercial applicator~~; 810

(d) An ~~employee or~~ immediate family member or a subordinate 811  
employee of a ~~certified~~ private applicator who is acting under the 812  
 direct supervision of that private applicator. 813

(2) No individual shall directly supervise the application of 814  
 a "restricted use pesticide" unless ~~he~~ the individual is one of 815

the following: 816

(a) Licensed under section 921.06, ~~921.07, 921.08, or 921.12~~ 817  
of the Revised Code; 818

(b) ~~A private applicator certified~~ Licensed under division 819  
(B) of this section. 820

(B) The director of agriculture shall adopt rules to 821  
establish standards and procedures for the ~~certification licensure~~ 822  
of private applicators. An individual shall apply for 823  
~~certification as~~ a private applicator license to the director, on 824  
forms prescribed by the director. The individual shall include in 825  
the application the pesticide-use category or categories of the 826  
license for which the individual is applying and any other 827  
information that the director determines is essential to the 828  
administration of this chapter. The fee for each ~~certification is~~ 829  
~~thirty dollars and the certification license shall be established~~ 830  
~~by rule. Licenses shall be issued for a period is three years of~~ 831  
~~time established by rule and shall be renewed in accordance with~~ 832  
~~deadlines established by rule.~~ If a certification license is not 833  
issued or renewed, the state shall retain any fee submitted as 834  
payment for reasonable expenses of processing the application. 835

(C) An individual who is licensed under this section shall 836  
use or directly supervise the use of a restricted use pesticide 837  
only for the purpose of producing agricultural commodities on 838  
property that is owned or rented by the individual or the 839  
individual's employer. 840

**Sec. ~~921.09~~ 921.12.** (A) The director of agriculture shall 841  
require each applicant for a license under ~~sections~~ section 842  
921.06, ~~921.07, 921.08, and 921.12~~ or 921.11 of the Revised Code 843  
to be examined on the applicant's knowledge and competency in ~~the~~ 844  
each of the following: 845

(1) This chapter and rules adopted under it; 846

## As Reported by the House Agriculture and Natural Resources Committee

(2) The proper use, handling, and application of pesticides 847  
and, if the applicant is applying for a license under section 848  
921.06 of the Revised Code, in the conducting of diagnostic 849  
inspections in the pesticide-use categories for which the 850  
applicant has applied. 851

(B) Each application for renewal of a license provided for in 852  
 section 921.06, ~~921.07, 921.08, or 921.12~~ of the Revised Code, 853  
 shall be filed prior to the deadline established by rule. If filed 854  
~~thereafter~~ after the deadline, a penalty of fifty per cent shall 855  
 be assessed ~~the custom applicator and the custom operator~~ and 856  
 added to the original fee and shall be paid by the applicant 857  
 before the renewal license is issued. However, if a license ~~or~~ 858  
~~certification~~ issued under section 921.06, ~~921.07, 921.08, or~~ 859  
~~921.12~~ of the Revised Code is not renewed within one year of the 860  
 date of expiration, ~~then such~~ the licensee or certificate holder 861  
 shall be required to take another examination on this chapter and 862  
rules adopted under it and on the proper use, handling, and 863  
application of pesticides and the proper conducting of diagnostic 864  
inspections in the pesticide-use categories for which the licensee 865  
has been licensed. 866

(C) A person who fails to pass an examination under division 867  
(A) or (B) of this section is not entitled to an adjudication 868  
under Chapter 119. of the Revised Code for that failure. 869

(D) The holder of a ~~custom applicator license, custom~~ 870  
~~operator license, limited commercial applicator license, or public~~ 871  
~~operator license~~ may renew ~~such~~ the license within one year of the 872  
 date of expiration without re-examination unless the director 873  
 determines that a new examination is necessary to insure that the 874  
 holder continues to meet the requirements of changing technology 875  
 and to assure a continuing level of competence and ability to use 876  
 pesticides safely and properly. 877

~~(D)~~(E) The director shall determine when re-examination for 878

## As Reported by the House Agriculture and Natural Resources Committee

~~recertification of the renewal of licenses for private applicators~~ 879  
is required to insure that private applicators continue to meet 880  
the requirements of changing technology and to assure a continuing 881  
level of competence and ability to use pesticides safely and 882  
properly. 883

(F) Instead of requiring a commercial applicator or private 884  
applicator to complete re-examination successfully under division 885  
(D) or (E) of this section, the director may require, in 886  
accordance with criteria established by rule, the commercial 887  
applicator or private applicator to participate in training 888  
programs that are designed to foster knowledge of new technology 889  
and to ensure a continuing level of competence and ability to use 890  
pesticides safely and properly. The director or the director's 891  
representative may provide the training or may authorize a third 892  
party to do so. In order for such authorization to occur, the 893  
third party and its training program shall comply with standards 894  
and requirements established by rule. 895

**Sec. 921.13.** (A) Any person who is acting in the capacity of 896  
a pesticide dealer or who advertises or assumes to act as a 897  
pesticide dealer at any time shall obtain a pesticide dealer 898  
license from the director of agriculture. Licenses shall be issued 899  
for a period of time established by rule and shall be renewed in 900  
accordance with deadlines established by rule. A license is 901  
required for each location or outlet within this state from which 902  
the person distributes pesticides. 903

Any pesticide dealer who has no pesticide dealer outlets in 904  
this state and who distributes restricted use pesticides directly 905  
into this state shall obtain a pesticide dealer license from the 906  
director for the pesticide dealer's principal out-of-state 907  
location or outlet and for each sales person operating in the 908  
state. 909

## As Reported by the House Agriculture and Natural Resources Committee

The applicant shall include a ~~twenty-five dollar~~ license fee 910  
established by rule with the application for a license. The 911  
application shall be made on a form prescribed by the director. 912

Each pesticide dealer shall submit records to the director of 913  
all of the restricted use pesticides the pesticide dealer has 914  
distributed, as specified by the director, and duplicate records 915  
shall be retained by the pesticide dealer for a period of time 916  
established by rules. 917

(B) This section does not apply to a ~~custom applicator who~~ 918  
~~exclusively sells pesticides only as an integral part of the~~ 919  
~~custom applicator's pesticide application business when the~~ 920  
~~pesticides are dispensed only through equipment used for the~~ 921  
~~pesticide application or to any federal, state, county, or~~ 922  
municipal agency that provides pesticides for its own programs. 923

(C) Each licensed pesticide dealer is responsible for the 924  
acts of each employee in the solicitation and sale of pesticides 925  
and all claims and recommendations for use of pesticides. The 926  
pesticide dealer's license is subject to denial, suspension, or 927  
revocation after a hearing for any violation of ~~sections 921.01 to~~ 928  
~~921.29 of the Revised Code~~ this chapter whether committed by the 929  
pesticide dealer or by the pesticide dealer's officer, agent, or 930  
employee. 931

**Sec. 921.14.** ~~(A) Each licensed custom applicator, limited~~ 932  
commercial applicator, ~~and public operator~~ shall keep a record of 933  
~~all~~ both of the following: 934

(1) All diagnostic inspections conducted to determine 935  
infestations of pests as required by rules adopted under division 936  
(C) of section 921.16 of the Revised Code; 937

(2) All pesticide applications made by him the applicator and 938  
by any trained serviceperson acting under the applicator's direct 939

As Reported by the House Agriculture and Natural Resources Committee

supervision as required by rules adopted under division (C) of 940  
section 921.16 of the Revised Code ~~and maintain that record.~~ 941

Each commercial applicator shall submit copies of the records 942  
required under division (A) of this section to the pesticide 943  
business, other business, state agency, or political subdivision 944  
that employs the commercial applicator. 945

(B) Each pesticide business, other business, state agency, or 946  
political subdivision that receives copies of records under 947  
division (A) of this section shall retain them for a period of 948  
three years from the date of the pesticide application to which 949  
that record refers or for any longer period that the director of 950  
agriculture determines necessary time established by rule. 951

(C) Each certified private applicator shall keep a record of 952  
all restricted use pesticide applications made by him the 953  
applicator or under his the applicator's direct supervision as 954  
required by rules adopted under division (C) of section 921.16 of 955  
the Revised Code ~~and.~~ In addition, each private applicator shall 956  
maintain that the record for a period of three years from the date 957  
of the restricted use pesticide application to which that record 958  
refers or for any longer period that the director of agriculture 959  
determines necessary. 960

~~Each licensed custom applicator or custom operator shall keep~~ 961  
~~a record of all diagnostic inspections to determine infestations~~ 962  
~~of pests and of all pest control services as required by rules~~ 963  
~~adopted under division (C) of section 921.16 of the Revised Code,~~ 964  
~~and maintain that record for a period of three years from the date~~ 965  
~~of the inspection to which that record refers or for any longer~~ 966  
~~period that the director determines necessary.~~ 967

**Sec. 921.16.** (A) The director of agriculture shall adopt 968  
rules the director determines necessary for the effective 969  
enforcement and administration of ~~sections 921.01 to 921.29 of the~~ 970



As Reported by the House Agriculture and Natural Resources Committee

~~Revised Code~~ this chapter. The rules may relate to, but are not 971  
 limited to, the time, place, manner, and methods of application, 972  
 materials, and amounts and concentrations of application of 973  
 pesticides, may restrict or prohibit the use of pesticides in 974  
 designated areas during specified periods of time, and shall 975  
 encompass all reasonable factors that the director determines 976  
 necessary to minimize or prevent damage to the environment. In 977  
 addition, the rules shall establish the fees, deadlines, and time 978  
periods for registration and, registration renewal, late 979  
registration renewal, and failure to register under section 921.02 980  
 of the Revised Code~~7~~ and the fees, deadlines, and time periods for 981  
 licensure and license renewal under sections ~~921.021~~, 921.06, 982  
~~921.07, 921.08, 921.12~~ 921.09, 921.11, and 921.13 of the Revised 983  
 Code~~, and the deadlines for certification under section 921.11 of~~ 984  
~~the Revised Code.~~ The aggregate amount of the fees that initially 985  
are established by rule after the effective date of this amendment 986  
shall be designed to cover, but not exceed, the costs incurred by 987  
the department of agriculture in administering this chapter. 988  
Thereafter, the fees shall not be increased without the approval 989  
of the general assembly. 990

(B) The director shall adopt rules that establish a schedule 991  
 of civil penalties for violations of ~~sections 921.01 to 921.29 of~~ 992  
~~the Revised Code~~ this chapter, or any rule or order adopted or 993  
 issued under ~~those sections~~ it, provided that the civil penalty 994  
 for a first violation shall not exceed five thousand dollars and 995  
 the civil penalty for each subsequent violation shall not exceed 996  
 ten thousand dollars. In determining the amount of a civil penalty 997  
 for a violation, the director shall consider factors relevant to 998  
 the severity of the violation, including past violations and the 999  
 amount of actual or potential damage to the environment or to 1000  
 human beings. 1001

(C) The director shall adopt rules that set forth the 1002

## As Reported by the House Agriculture and Natural Resources Committee

conditions under which the director:	1003
(1) Requires that notice or posting be given of a proposed application of a pesticide;	1004 1005
(2) <del>Requires a permit to apply a restricted use pesticide;</del>	1006
(3) Requires inspection, condemnation, or repair of equipment used to apply a pesticide;	1007 1008
(4)(3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of <del>sections 921.01 to 921.29 of the Revised Code</del> <u>this chapter</u> ;	1009 1010 1011
(5)(4) Requires safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;	1012 1013 1014
(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;	1015 1016 1017 1018 1019
(7)(6) Requires a record to be kept of all pesticide applications made by each <del>licensed custom applicator, limited commercial applicator, and public operator</del> <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 <del>certified</del> 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> ;	1020 1021 1022 1023 1024 1025 1026 1027 1028
(8)(7) Determines <del>those</del> <u>the pesticide-use</u> categories of <del>applicators who conduct diagnostic inspections that must be conducted by a commercial applicator</del> ;	1029 1030 1031
(8) <u>Requires a record to be kept of all diagnostic</u>	1032

## As Reported by the House Agriculture and Natural Resources Committee

inspections ~~or who offer pest control services that must be~~ 1033  
~~performed~~ conducted by a ~~certified~~ each commercial applicator ~~and~~ 1034  
~~for which written records are required~~ and by any trained service 1035  
~~person.~~ 1036

(D) The director shall prescribe standards for the 1037  
~~certification~~ licensure of applicators of pesticides consistent 1038  
with those prescribed by the federal act and the regulations 1039  
adopted ~~thereunder~~ under it or prescribe standards that are more 1040  
restrictive than those prescribed by the federal act and the 1041  
regulations adopted under it. The standards may relate to the use 1042  
~~and handling of pesticides or to the use and handling of the a~~ 1043  
pesticide or ~~class of pesticide uses covered by the individual's~~ 1044  
~~certification, and shall relate to the hazards involved and the~~ 1045  
~~use experience~~ to an individual's pesticide-use category. 1046

The director shall take into consideration standards of the 1047  
United States environmental protection agency. 1048

(E) The director may adopt rules setting forth the conditions 1049  
under which the director will: 1050

(1) Collect and examine samples of pesticides or devices; 1051

(2) Specify classes of devices that shall be subject to this 1052  
chapter; 1053

(3) Prescribe other necessary registration information. 1054

(F) The director may adopt rules ~~to designate~~ that do either 1055  
or both of the following: 1056

(1) Designate, in addition to those restricted uses so 1057  
classified by the administrator of the United States environmental 1058  
protection agency, restricted uses of pesticides for the state or 1059  
for designated areas within the state and, if the director 1060  
considers it necessary, to further restrict such use; 1061

(2) Define what constitutes "acting under the instructions 1062

## As Reported by the House Agriculture and Natural Resources Committee

and control of a commercial applicator" as used in the definition 1063  
of "direct supervision" in division (Q)(1) of section 921.01 of 1064  
the Revised Code. In adopting a rule under division (F)(2) of this 1065  
section, the director shall consider the risks associated with the 1066  
use of pesticide in the various pesticide-use categories. Based on 1067  
consideration of the risks, the director may define "acting under 1068  
the instructions and control of a commercial applicator" to 1069  
include communications between a commercial applicator and a 1070  
trained serviceperson that are conducted via landline telephone or 1071  
a means of wireless communication. Any rules adopted under 1072  
division (F)(2) of this section shall be drafted in consultation 1073  
with representatives of the pesticide industry. 1074  
1075

(G) The Except as provided in division (D) of this section, 1076  
the director shall not adopt any rule under sections 921.01 to 1077  
921.29 of the Revised Code this chapter that meets either of the 1078  
following: 1079

~~(1) Permits any pesticide use that is prohibited by the~~ 1080  
~~federal act and regulations or orders issued thereunder;~~ 1081

~~(2) As to certified applicators of restricted use pesticides~~ 1082  
~~as designated under the federal act, and rules adopted as to~~ 1083  
~~experimental use permits as authorized by the federal act, is~~ 1084  
inconsistent with the requirements of the federal act and 1085  
regulations adopted thereunder. 1086

(H) The director, after notice and opportunity for hearing, 1087  
may declare as a pest any form of plant or animal life, other than 1088  
human beings and other than bacteria, viruses, and other 1089  
microorganisms on or in living human beings or other living 1090  
animals, that is injurious to health or the environment. 1091

(I) The director may make reports to the United States 1092  
environmental protection agency, in the form and containing the 1093  
information the agency may require. 1094

## As Reported by the House Agriculture and Natural Resources Committee

(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

<u>pass a re-examination.</u>	1126
<u>(3) Training requirements for a trained serviceperson.</u>	1127
<u>(L) The director shall adopt all rules under <del>sections 921.01</del></u>	1128
<u>to <del>921.29</del> of the Revised Code <u>this chapter</u> in accordance with</u>	1129
<u>Chapter 119. of the Revised Code.</u>	1130
<b>Sec. 921.18.</b> (A) The director of agriculture may:	1131
<u>(1) <del>Enter upon</del> <u>In order to determine compliance with this</u></u>	1132
<u>chapter and rules adopted under it, enter any public or private</u>	1133
<u>premises or transport vehicles during regular business hours <del>in</del></u>	1134
<u>order to have access to <u>do any or all of the following:</u></u>	1135
<u>(a) <u>Inspect and copy books, <del>accounts, pesticide application</del></u></u>	1136
<u>records, <u>contracts related to pesticide business activities, and</u></u>	1137
<u>memoranda, <del>pesticides, or devices, subject to the sections of the</del></u>	1138
<u>law and the rules thereunder for the purpose of determining</u>	1139
<u>pesticide applications, <del>the financial responsibility of the</del></u>	1140
<u>applicator, <u>the documents;</u></u>	1141
<u>(b) <u>Inspect the storage or disposal of pesticides; <del>also, to</del></u></u>	1142
<u>inspect</u>	1143
<u>(c) <u>Inspect</u> and sample pesticides in storage or in use, <del>the</del></u>	1144
<u>disposal of pesticides, <u>to inspect;</u></u>	1145
<u>(d) <u>Inspect</u> equipment or devices used to apply pesticides, <del></del></u>	1146
<u>and to make copies of records in conformity therewith;</u>	1147
<u>(e) <u>Inspect storage facilities and sites;</u></u>	1148
<u>(f) <u>Inspect production areas of persons that manufacture</u></u>	1149
<u>pesticides for commercial purposes.</u>	1150
<u>(2) Enter upon any public or private premises at any time,</u>	1151
<u>when or where pesticides are being applied to determine if the</u>	1152
<u>applicator is or should be <del>certified or licensed, or</del> if proper</u>	1153
<u>notice has been given before pesticide application, and to collect</u>	1154

## As Reported by the House Agriculture and Natural Resources Committee

samples of pesticides being applied or available for use, ~~and to~~ 1155  
~~inspect equipment or devices used to apply pesticides;~~ 1156

(3) Enter upon any public or private premises at reasonable 1157  
 hours to inspect any property thereon, or to collect samples of 1158  
 vegetation or animal life, water, soil, or other matter, in order 1159  
 to determine residue levels, efficacy of application, or adverse 1160  
 effects of application, drift, or spillage; 1161

(4) Should the director be denied access to any premises 1162  
 where such access is sought for the purposes set forth in this 1163  
 section, ~~he may~~ apply to any court of competent jurisdiction for a 1164  
 search warrant authorizing access to such land for ~~said those~~ 1165  
 purposes. The court may, upon such application, issue the search 1166  
 warrant for the purposes requested. 1167

(B) When the director or ~~his~~ the director's authorized agent 1168  
 observes, or has reasonable cause to believe that a piece of 1169  
 equipment used by a ~~custom commercial~~ applicator ~~or operator,~~ a 1170  
private applicator, or any other individual requires calibration, 1171  
 adjustment, or repair to enable it to perform satisfactorily, ~~he~~ 1172  
the director may require such adjustment to be made immediately or 1173  
 issue a "stop operation" order pending repair to the equipment and 1174  
~~he~~ the director may require a demonstration of it before 1175  
 cancellation or withdrawal of the stop operation order. 1176

(C) The director or the director's authorized agent may: 1177

(1) Issue an order to the owner or custodian of any lot of 1178  
 pesticide or a device requiring it to be held at a designated 1179  
 place when the director or the director's authorized agent has 1180  
 reasonable cause to believe that the pesticide or device has been 1181  
 distributed, stored, transported, or used in violation of ~~sections~~ 1182  
~~921.01 to 921.29 of the Revised Code~~ this chapter, or any rule 1183  
 adopted thereunder. The pesticide or device shall be held until a 1184  
 release in writing is issued by the director, the director's 1185  
authorized agent, or ~~by~~ a court order. No release shall be issued 1186

## As Reported by the House Agriculture and Natural Resources Committee

until ~~sections 921.01 to 921.29 of the Revised Code, this chapter~~ 1187  
and the rules adopted thereunder are complied with. 1188

(2) If the owner or custodian is not available for service of 1189  
the order upon ~~him~~ the owner or custodian, ~~the director may~~ attach 1190  
the order to the pesticide or device and notify the owner or 1191  
custodian, and the registrant. 1192

(D)(1) The director shall establish standards governing the 1193  
development and implementation of integrated pest management 1194  
practices that are designed to prevent unreasonable adverse 1195  
effects on human health and the environment. 1196

(2) The director may enter into cooperative agreements with 1197  
other state agencies for the implementation of voluntary or 1198  
mandatory integrated pest management practices. 1199

**Sec. 921.08 921.19.** (A) Every state agency, municipal 1200  
corporation, and every other governmental agency and political 1201  
subdivision is subject to ~~sections 921.01 to 921.29 of the Revised~~ 1202  
~~Code~~ this chapter and the rules adopted thereunder with respect to 1203  
the application, handling, and use of pesticides. 1204

~~(B) No individual shall act as a public operator without~~ 1205  
~~having a public operator license issued by the director of~~ 1206  
~~agriculture. Licenses shall be issued for a period of time~~ 1207  
~~established by rule and shall be renewed in accordance with~~ 1208  
~~deadlines established by rule. The director shall by rule~~ 1209  
~~classify, by categories, licenses to be issued under this section.~~ 1210

~~(C) An individual shall apply to the director for a public~~ 1211  
~~operator license on a form prescribed by the director. Each~~ 1212  
~~application for a license shall state the license category or~~ 1213  
~~categories for which the applicant is applying, and any other~~ 1214  
~~information that the director determines essential to the~~ 1215  
~~administration of sections 921.01 to 921.29 of the Revised Code.~~ 1216



## As Reported by the House Agriculture and Natural Resources Committee

~~(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,

## As Reported by the House Agriculture and Natural Resources Committee

~~and, after the opportunity for hearing, may deny, suspend, revoke,~~ 1248  
~~refuse to renew, or modify any provision of any license, permit,~~ 1249  
~~or certification registration~~ issued pursuant to this chapter if 1250  
~~he the director~~ finds that the applicant or the holder of a 1251  
license, permit, or ~~certificate~~ registration is no longer 1252  
qualified, has violated any provision of this chapter or rules 1253  
adopted under it, has been found guilty of violating the ~~Federal~~ 1254  
~~Insecticide, Fungicide and Rodenticide Act~~ federal act, or has 1255  
been convicted of a misdemeanor involving moral turpitude or of a 1256  
felony. 1257

**Sec. 921.25 921.24.** ~~It is unlawful for any~~ No person to shall 1258  
do any of the following: 1259

(A) Apply, use, directly supervise such application or use, 1260  
or recommend a pesticide for use inconsistent with ~~its~~ the 1261  
~~pesticide's~~ labeling, treatment standards, or other restrictions 1262  
imposed by the director of agriculture; 1263

(B) ~~Except as provided in division (C) of this section, use~~ 1264  
~~any pesticide Act as a commercial applicator~~ without being 1265  
licensed or certified to do so ~~or being a trained serviceman under~~ 1266  
~~the direct supervision of a commercial applicator or limited~~ 1267  
~~commercial applicator;~~ 1268

(C) Use any restricted use pesticide, unless ~~certified the~~ 1269  
~~person is licensed~~ to do so, ~~acting as a trained serviceman under~~ 1270  
~~the direct supervision of a commercial applicator or limited~~ 1271  
~~commercial applicator,~~ is a trained serviceperson acting under the 1272  
direct supervision of a commercial applicator, or ~~acting as is~~ an 1273  
~~employee or immediate family member or a subordinate employee~~ of a 1274  
private applicator under the direct supervision of that private 1275  
applicator; 1276

(D) Refuse or fail to keep ~~and or~~ or maintain records required 1277  
by the director in rules ~~he adopts~~ adopted under ~~sections 921.01~~ 1278

## As Reported by the House Agriculture and Natural Resources Committee

to <del>921.29 of the Revised Code</del> <u>this chapter</u> , or to make reports	1279
when and as required by the director in rules <del>he adopts</del> <u>adopted</u>	1280
under <del>sections 921.01 to 921.29 of the Revised Code</del> <u>this chapter</u> ;	1281
(E) Falsely or fraudulently represent the effect of	1282
pesticides or methods to be utilized;	1283
(F) Apply known ineffective or improper materials;	1284
(G) Operate in a negligent manner, which includes the	1285
operation of faulty or unsafe equipment;	1286
(H) Impersonate any federal, state, county, or municipal	1287
official;	1288
(I) Make false or fraudulent records, invoices, or reports;	1289
(J) <del>Directly supervise the use of any restricted use</del>	1290
<del>pesticide on the property of another without having a certified</del>	1291
<del>applicator in</del> <u>Fail to provide training to trained servicepersons</u>	1292
<u>in the application of pesticides</u> ;	1293
(K) <u>Fail to provide direct supervision as specified in rules</u>	1294
<u>adopted under division (C) of section 921.16 of the Revised Code</u> ;	1295
<del>(K) Directly supervise the use of any general use pesticide</del>	1296
<del>on the property of another without having a licensed applicator in</del>	1297
<del>direct supervision</del>	1298
(L) <u>Distribute a misbranded or adulterated pesticide</u> ;	1299
<del>(L)</del> (M) Use fraud or misrepresentation in making application	1300
for a license or <del>certificate</del> <u>registration</u> or renewal of a license	1301
or <del>certificate</del> <u>registration</u> ;	1302
<del>(M)</del> (N) Refuse, fail, or neglect to comply with any limitation	1303
or restriction of a license or <u>registration</u> issued <del>pursuant to</del>	1304
<del>sections 921.01 to 921.29 of the Revised Code</del> <u>under this chapter</u>	1305
or rules adopted thereunder;	1306
<del>(N)</del> (O) Aid or abet a licensee or another person in violating	1307

## As Reported by the House Agriculture and Natural Resources Committee

<del>sections 921.01 to 921.29 of the Revised Code</del> <u>this chapter</u> or	1308
rules adopted thereunder;	1309
<del>(O)</del> (P) Make a false or misleading statement in an inspection	1310
concerning any infestation of pests or the use of pesticides;	1311
<del>(P)</del> (Q) Refuse or fail to comply with <del>sections 921.01 to</del>	1312
<del>921.29 of the Revised Code</del> <u>this chapter</u> , the rules adopted	1313
thereunder, or <del>with</del> any lawful order of the director;	1314
<del>(Q)</del> (R) Distribute restricted use pesticides to the ultimate	1315
user or <del>to an employee who is a commercial applicator at any time</del>	1316
without a pesticide dealer's license <del>or</del> ;	1317
<del>(S)</del> <u>Except as provided in division (F) of section 921.26 of</u>	1318
<u>the Revised Code, distribute restricted use pesticides to an</u>	1319
ultimate user who is not <del>a certified applicator</del> licensed under	1320
<del>sections 921.01 to 921.29</del> <u>section 921.06, 921.08, or 921.11</u> of the	1321
Revised Code and rules adopted <del>thereunder</del> <u>under this chapter</u> ;	1322
<del>(R)</del> (T) Use any pesticide that is under an experimental use	1323
permit contrary to the provisions of <del>such</del> <u>the</u> permit;	1324
<del>(S)</del> (U) Engage in fraudulent business practices <del>in the</del>	1325
<del>application of pesticides, when licensed as a custom applicator</del> ;	1326
<del>(T)</del> (V) Dispose of any pesticide product or container in such	1327
a manner as to have unreasonable adverse effects on the	1328
environment;	1329
<del>(U)</del> (W) Display any pesticide in any manner to produce	1330
unreasonable adverse effects on the environment, or to contaminate	1331
adjacent food, feed, or other products;	1332
<del>(V)</del> (X) Apply any pesticide by aircraft without being licensed	1333
as a commercial applicator;	1334
<del>(Y)</del> <u>Distribute a pesticide that is not registered with the</u>	1335
<u>director</u> ;	1336
<del>(Z)</del> <u>Fail to properly supervise a trained serviceperson.</u>	1337

## As Reported by the House Agriculture and Natural Resources Committee

~~Sec. 921.26~~ 921.25. (A)(1) Whenever the director of of 1338  
agriculture has cause to believe that any person has violated, or 1339  
is violating, ~~sections 921.01 to 921.29 of the Revised Code,~~ this 1340  
chapter or any rule or order adopted or issued under ~~those~~ 1341  
~~sections it,~~ he the director may conduct a hearing ~~which shall be~~ 1342  
in accordance with Chapter 119. of the Revised Code to determine 1343  
whether a violation has occurred. ~~The~~ Except as otherwise provided 1344  
in division (A)(3) of this section, ~~the~~ director shall assess a 1345  
civil penalty against any person who violates ~~sections 921.01 to~~ 1346  
~~921.29 of the Revised Code,~~ this chapter or any rule or order 1347  
adopted or issued under ~~those sections,~~ it in accordance with the 1348  
schedule of civil penalties established in rules adopted under 1349  
division ~~(A)(B)~~ of section 921.16 of the Revised Code. Each day a 1350  
violation continues constitutes a separate and distinct violation. 1351

(2) ~~In addition, the director may assess a civil penalty~~ 1352  
~~against any employer of a person who violates sections 921.01 to~~ 1353  
~~921.29 of the Revised Code, or any rule or order adopted or issued~~ 1354  
~~under those sections, for the same violation for which he fines~~ 1355  
~~the employee, if one of the following applies:~~ 1356

(a) ~~With prior knowledge of the employee's act or omission~~ 1357  
~~which constitutes the violation, the employer authorizes,~~ 1358  
~~approves, or otherwise actively participates in the act or~~ 1359  
~~omission;~~ 1360

(b) ~~After the occurrence of the employee's act or omission~~ 1361  
~~that constitutes the violation, the employer, with full knowledge~~ 1362  
~~of the act or omission, ratifies it;~~ 1363

(c) ~~The employer had knowledge that the act or omission of~~ 1364  
~~the employee that constitutes the violation would occur~~ to 1365  
assessing a civil penalty under division (A)(1) of this section, 1366  
the director may deny, modify, suspend, revoke, or refuse to renew 1367  
a license, permit, or registration issued under this chapter. 1368

As Reported by the House Agriculture and Natural Resources Committee

(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. 1369  
 1370  
 1371  
 1372

Divisions (A)(1) ~~and~~, (2), ~~and~~ (3) of this section do not 1373  
 affect, and shall not be construed as affecting, any other civil 1374  
 or criminal liability of the employee or the employer that may 1375  
 arise in consequence of the employer's or the employee's violation 1376  
 of this chapter or any other law. 1377

~~(3)~~(4) If the person or employer ~~or employee~~ does not pay a 1378  
 civil penalty within a reasonable time after its assessment, the 1379  
 attorney general, upon the request of the director, shall bring a 1380  
 civil action to recover the amount of the penalty. 1381

(B)(1) In lieu of conducting a hearing under division (A) of 1382  
 this section, the director may refer the violation to the attorney 1383  
 general who, except as otherwise provided in division (B)(2) of 1384  
this section, may bring a civil action against any person who 1385  
 violates ~~sections 921.01 to 921.29 of the Revised Code~~, this 1386  
chapter or any rule or order adopted or issued under ~~those~~ 1387  
~~sections~~ it. If the court determines that a violation has 1388  
 occurred, the court shall order the person to pay a civil penalty 1389  
 for each violation, not to exceed five thousand dollars for a 1390  
 first violation and not to exceed ten thousand dollars for each 1391  
 subsequent violation. Each day a violation continues ~~shall~~ 1392  
~~constitute~~ constitutes a separate and distinct violation. 1393

~~(2) If the director refers a violation to the attorney general under division (B)(1) of this section, the attorney general, in addition, may bring a civil action against any employer of a person who violates sections 921.01 to 921.29 of the Revised Code, or any rule or order adopted or issued under those sections. The court shall order the employer to pay a civil penalty for the same violation for which the court orders the~~ 1394  
 1395  
 1396  
 1397  
 1398  
 1399  
 1400

## As Reported by the House Agriculture and Natural Resources Committee

~~employee to pay a civil penalty, if one of the following applies:~~ 1401

~~(a) With prior knowledge of the employee's act or omission 1402  
which constitutes the violation, the employer authorizes, 1403  
approves, or otherwise actively participates in the act or 1404  
omission;~~ 1405

~~(b) After the occurrence of the employee's act or omission 1406  
that constitutes the violation, the employer, with full knowledge 1407  
of the act or omission, ratifies it;~~ 1408

~~(c) The employer had knowledge that the act or omission of 1409  
the employee that constitutes the violation would occur The civil 1410  
action authorized under division (B)(1) of this section may be 1411  
brought against the employer of a person who violates this chapter 1412  
or any rule adopted or order issued under it rather than against 1413  
the person. 1414~~

Divisions (B)(1) and (2) of this section do not affect, and 1415  
shall not be construed as affecting, any other civil or criminal 1416  
liability of the employee or the employer ~~which~~ that may arise in 1417  
consequence of the employer's or employee's violation of this 1418  
chapter or any other law. 1419

(C) In addition to the remedies provided and irrespective of 1420  
whether or not there exists an adequate remedy at law, the 1421  
director may apply to the court of common pleas for a temporary or 1422  
permanent injunction or other appropriate relief against continued 1423  
violation of ~~sections 921.01 to 921.29 of the Revised Code~~ this 1424  
chapter. 1425

(D) The remedies available to the director and to the 1426  
attorney general under ~~sections 921.01 to 921.29 of the Revised 1427  
Code~~ this chapter are cumulative and concurrent, and the exercise 1428  
of one remedy by either the director or the attorney general, or 1429  
by both, does not preclude or require the exercise of any other 1430  
remedy by the director, the attorney general, or a prosecutor as 1431

## As Reported by the House Agriculture and Natural Resources Committee

defined in section 2935.01 of the Revised Code, except that no 1432  
person shall pay both a civil penalty under division (A) of this 1433  
section and a civil penalty under division (B) of this section for 1434  
the same violation. 1435

(E) If a person violates this chapter or rules adopted under 1436  
it, both of the following apply: 1437

(1) The person is liable for the violation. 1438

(2) The employer of the person is liable for and may be 1439  
convicted of the violation if the person was acting on behalf of 1440  
the employer and was acting within the scope of the person's 1441  
employment. 1442

**Sec. 921.23 921.26.** (A) The penalties provided for violations 1443  
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter do 1444  
not apply to any of the following: 1445

(1) Any carrier while lawfully engaged in transporting a 1446  
pesticide or device within this state, if that carrier, upon 1447  
request, permits the director of agriculture to copy all records 1448  
showing the transactions in the movement of the pesticides or 1449  
devices; 1450

(2) Public officials of this state and the federal 1451  
government, other than ~~public operators~~ commercial applicators 1452  
employed by the federal government, the state, or a political 1453  
subdivision, while engaged in the performance of their official 1454  
duties in administering state or federal pesticide laws or rules, 1455  
or while engaged in pesticide research; 1456

(3) The manufacturer or shipper of a pesticide for 1457  
experimental use only by or under supervision of an agency of this 1458  
state or of the federal government authorized by law to conduct 1459  
research in the field of pesticides, provided that the 1460  
manufacturer or shipper is not required to obtain an experimental 1461



## As Reported by the House Agriculture and Natural Resources Committee

- use permit from the United States environmental protection agency; 1462
- (4) The manufacturer or shipper of a substance being tested 1463  
in which its purpose only is to determine its value for pesticide 1464  
purposes or to determine its toxicity or other properties, and 1465  
from which the user does not expect to receive any benefit in pest 1466  
control from its use; 1467
- (5) Persons conducting laboratory research involving 1468  
pesticides; 1469
- (6) Persons who incidentally use pesticides. The incidental 1470  
use shall involve only the application of general use pesticides. 1471  
If a person incidentally uses a pesticide, the pesticide shall be 1472  
applied in strict accordance with the manufacturer's label for 1473  
general use purposes. If further applications are necessary 1474  
following the incidental use application, a pesticide applicator 1475  
shall apply the pesticide. 1476
- (B) No pesticide or device shall be considered in violation 1477  
of ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter when 1478  
intended solely for export to a foreign country, and when prepared 1479  
or packed according to the specifications or directions of the 1480  
purchaser. If the pesticide or device is not so exported, ~~the 1481  
provisions of sections 921.01 to 921.29 of the Revised Code apply 1482  
this chapter applies.~~ 1483
- (C) No person who is licensed, regulated, or registered under 1484  
section 921.02, ~~921.021~~, 921.03, 921.06, ~~921.07~~, 921.08, 921.09, 1485  
921.11, ~~921.12~~, or 921.13, ~~or 921.15~~ of the Revised Code shall be 1486  
required to obtain a license or permit to operate or to be 1487  
otherwise regulated in such capacity by any local ordinance, or to 1488  
meet any other condition except as otherwise provided by statute 1489  
or rule of the United States or of this state. 1490
- (D) Section ~~921.06~~ 921.09 of the Revised Code ~~relating to a 1491  
custom applicator~~ does not apply to an individual who uses only 1492

## As Reported by the House Agriculture and Natural Resources Committee

ground equipment for ~~himself~~ the individual or for ~~his~~ the 1493  
individual's neighbors, provided that ~~he~~ the individual meets all 1494  
of the following requirements: 1495

(1) ~~Is certified as a private applicator if he uses a~~ 1496  
~~restricted use pesticide licensed under section 921.11 of the~~ 1497  
Revised Code; 1498

(2) Operates farm property and operates and maintains 1499  
pesticide application equipment primarily for ~~his~~ the individual's 1500  
own use; 1501

(3) Is not regularly engaged in the business of applying 1502  
pesticides for hire or does not publicly hold ~~himself~~ oneself out 1503  
as a pesticide applicator; 1504

(4) Meets any other requirement established by rule. 1505

(E) ~~Sections Section~~ Section 921.06 ~~and 921.07~~ of the Revised Code 1506  
relating to licenses and requirements for their issuance ~~do~~ does 1507  
not apply to licensed physicians or veterinarians applying 1508  
pesticides to ~~man~~ human beings or other animals during the normal 1509  
course of their practice, provided that they are not regularly 1510  
engaged in the business of applying pesticides for hire amounting 1511  
to a principal or regular occupation or do not publicly hold 1512  
themselves out as commercial applicators. 1513

(F) Division (S) of section 921.24 of the Revised Code does 1514  
not apply to a pesticide dealer who distributes restricted use 1515  
pesticides to a nonresident who is licensed in another state 1516  
having a state plan approved by the United States environmental 1517  
protection agency. 1518

**Sec. 921.27.** (A) If the director of agriculture has 1519  
reasonable cause to believe that a pesticide or device is being 1520  
distributed, stored, transported, or used in violation of ~~sections~~ 1521  
~~921.01 to 921.29 of the Revised Code,~~ this chapter or of any of 1522

As Reported by the House Agriculture and Natural Resources Committee

the prescribed rules, it shall be subject to seizure on complaint 1523  
of the director to a court of competent jurisdiction in the 1524  
locality in which the pesticide or device is located. 1525

(B) If the article is condemned, it shall, after entry or 1526  
decree, be disposed of by destruction or sale as the court may 1527  
direct and the proceeds, if ~~such~~ the article is sold, less legal 1528  
costs, shall be paid to the pesticide program fund created in 1529  
section ~~921.151~~ 921.22 of the Revised Code. The article shall not 1530  
be sold contrary to ~~the provisions~~ of this section. Upon payment 1531  
of costs and execution and delivery of a good and sufficient bond 1532  
conditioned that the article shall not be disposed of unlawfully, 1533  
the court may direct that the article be delivered to the owner 1534  
thereof for relabeling or reprocessing. 1535

**Sec. 921.29.** Fines, penalties, costs, and damages assessed 1536  
against a person in consequence of violations of ~~sections 921.01~~ 1537  
~~to 921.29 of the Revised Code~~ this chapter, as provided in 1538  
~~sections 921.01 to 921.29 of the Revised Code~~ this chapter or any 1539  
other section of the Revised Code, shall be a lien in favor of the 1540  
state upon the real and personal property of the person, upon the 1541  
filing of a judgment or an order of the director of agriculture 1542  
with the county in which the real and personal property is 1543  
located. The real and personal property of the person shall be 1544  
liable to execution for the fines, penalties, costs, and damages 1545  
by the attorney general, who shall deposit any proceeds from an 1546  
execution upon the property in the pesticide program fund created 1547  
in section ~~921.151~~ 921.22 of the Revised Code. 1548

**Sec. 921.30.** Nothing in this chapter or any rule adopted 1549  
under it shall be construed to require the director of agriculture 1550  
to report any findings to the appropriate prosecuting authority 1551  
for proceedings in prosecution of, or issue any order or institute 1552  
any enforcement procedure for, a violation of this chapter or a 1553

## As Reported by the House Agriculture and Natural Resources Committee

rule adopted under it whenever the director believes that the public interest will be best served by a suitable written notice of warning. A person who receives a written notice of warning may respond in writing to the notice. 1554  
1555  
1556  
1557

**Sec. ~~921.30~~ 921.31.** On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of agriculture shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license, ~~certificate~~ registration, or permit issued pursuant to this chapter. 1558  
1559  
1560  
1561  
1562  
1563

**Sec. 921.99.** (A) Whoever violates ~~sections 921.01 to 921.29 of the Revised Code~~ this chapter or rules adopted under ~~those sections~~ it, except division (G) or ~~(O)~~ (P) of section ~~921.25~~ 921.24 of the Revised Code, is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on a subsequent offense. 1564  
1565  
1566  
1567  
1568  
1569

(B) Whoever violates division (G) or ~~(O)~~ (P) of section ~~921.25~~ 921.24 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fourth degree on each subsequent offense. 1570  
1571  
1572  
1573

(C) No recovery of damages shall be allowed from administrative action taken or for "stop sale, use, or removal" if the court finds that there was probable cause for ~~such~~ that action. 1574  
1575  
1576  
1577

**Section 4.** That existing sections 907.42, 921.01, 921.02, 921.021, 921.06, 921.08, 921.09, 921.10, 921.11, 921.13, 921.14, 921.151, 921.16, 921.18, 921.22, 921.23, 921.24, 921.25, 921.26, 921.27, 921.29, 921.30, and 921.99 and sections 921.07 and 921.12 of the Revised Code are hereby repealed. 1578  
1579  
1580  
1581  
1582

## As Reported by the House Agriculture and Natural Resources Committee

**Section 5.** Sections 3 and 4 of this act shall take effect 1583  
July 1, 2004. Before that date, the Director of Agriculture shall 1584  
continue to issue custom applicator licenses under section 921.06, 1585  
custom operator licenses under section 921.07, public operator 1586  
licenses under section 921.08, and limited commercial applicator 1587  
licenses under section 921.12 of the Revised Code. Those licenses 1588  
shall continue to be valid until the date on which they expire 1589  
regardless of whether the expiration date is on or after July 1, 1590  
2004. On and after July 1, 2004, the Director shall cease to issue 1591  
those licenses and instead shall issue commercial applicator 1592  
licenses under section 921.06 of the Revised Code as amended by 1593  
this act. 1594