

BILL ANALYSIS

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CONCURRENCE IN SENATE AMENDMENTS  
AB 405 (Montanez)  
As Amended September 2, 2005  
Majority vote

|           |       |                |         |       |                     |
|-----------|-------|----------------|---------|-------|---------------------|
| ASSEMBLY: | 46-27 | (May 19, 2005) | SENATE: | 21-14 | (September 6, 2005) |
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Original Committee Reference: E.S.&T.M.

SUMMARY : Prohibits the use at a school of pesticides that do not have full registration or testing from state agencies. Specifically, this bill :

The Senate amendments narrow the measure as passed by the Assembly to:

- 1)Specify that a conditionally registered pesticide can still be used if it is approved for other uses and has fulfilled all registration health requirements that relate to human health, including the mandatory health effect studies pursuant to the Birth Defect Prevention Act of 1984.
- 2)Exempt public health pesticides or antimicrobial pesticides registered by the Department of Pesticide Regulation (DPR) pursuant to its expedited registration process.
- 3)Specify that this bill is not intended to impose any new labeling requirements.
- 4)Explicitly states that this measure does not apply to pesticide products having full registration.

EXISTING LAW :

- 1)Declares, under the Healthy Schools Act of 2000, [AB 2260 (Shelley), Chapter 718, Statutes of 2000] that schools should use the least toxic pest management practices that are effective to manage pests at school sites. To encourage the implementation of such practices, state agencies are directed to facilitate the adoption of effective least toxic management practices at school sites.

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- 2)Requires each school site to maintain records of all pesticide use at the school site for a period of four years and to make the records available to the public upon request. Annually, a person designated in each school district shall provide written notification on the expected pesticide use to all staff and parents or guardians of pupils enrolled at a school. Recipients of such notices can register with the school district to receive information regarding individual pesticide applications. In addition, the school district designee must post warning signs prior to application of pesticides at a school site.

- 3)Requires manufacturers of pesticides to obtain a certificate of registration from the Director of DPR before the pesticide can be offered for sale in California. The Director may refuse to register or may cancel the registration of any pesticide that: a) demonstrates serious uncontrolled adverse effects; b) causes greater detriment than benefit by its use; c) can be replaced by a reasonable, effective, practical, and less destructive alternative; or, d) is detrimental to the public health and safety when properly used.

- 4)Prohibits, under the Birth Defect Prevention Act of 1984 (Act), the sale of any pesticide that might induce abortion, birth defects, or infertility. This Act was enacted to limit approval of new pesticides where DPR did not have on file a full set of valid mandatory health effects studies. The Act specifically prohibited the conditional registration of a new active pesticide ingredient when any of the mandatory health effects studies is missing, incomplete, or of questionable validity unless the registration is based on previous consultation with the state Director of Health Services and the Director of Industrial Relations.

AS PASSED BY THE ASSEMBLY , this bill:

- 1)Prohibited the use at a schoolsite of a pesticide that is

granted conditional registration, interim registration, or an experimental use permit by DPR, if the pesticide also: a) contains a new active ingredient; or, b) is intended for a new use. It also barred the use on a schoolsite of a pesticide that is identified by DPR for suspension, cancellation or for phase out of use. A vendor or manufacturer was not allowed to make such pesticides available to a school district either by sale or by gift.

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- 2) Exempted a pesticide from the requirements of this bill that is granted a conditional registration and is intended for a new use if that pesticide was unconditionally or fully registered within 15 years from the conditional registration, unless that registration has been cancelled or suspended, or that pesticide has been phased out of use.
- 3) Made findings that pesticides can pose developmental risks to children and that there are different levels of registration reflecting outstanding data requirements. It also made findings on the usefulness of publicly accessible databases of conditionally registered pesticides.

FISCAL EFFECT : None

COMMENTS : The Senate version of the bill is narrower, but substantially similar, to the version of the measure as passed by the Assembly.

- 1) The sponsor of this bill, California Safe Schools, is concerned with the potential California school site exposure of children and school employees to pesticide products that have not been fully registered or which may have outstanding data requirements.
- 2) The sponsor notes that children are more vulnerable to environmental hazards than adults and require special protection from many contaminants, including those that can be found in school environments. Pound for pound, children breathe more air, drink more water and eat more food (and dirt) than do adults, increasing their intake of environmental contaminants. They are also more susceptible to these contaminants because their bodies and organs are growing and developing. The special vulnerability of children to environmental hazards and given that children typically spend six to eight hours a day in school or daycare demand that standards for school construction, maintenance and operations should be specially tailored to be protective of children.
- 3) The sponsor asserts, that given the "increasing numbers of cancer, autism, birth defects, neurological, and hormonal disorders, particularly in children, there is a wide interest in proactive measures to ensure the health of not only the current population, but generations to come."

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- 4) The Center for Health, Environment and Justice cites findings of the United States Environmental Protection Agency Report "Chemical Hazard Availability Study" from 1998 that found 43% of the 2,863 most commonly used chemicals had no toxicity information available, and only 7% had complete toxicity data. They state that a pesticide product may be used for years under a conditional registration without completing basic toxic analysis.
- 5) DPR has approved conditional registration for a new ingredient for pesticide use even where it notes possible adverse effects in mouse, monkey or dog chronic studies, oncogenicity feeding studies and teratology studies. In such cases, DPR usually makes a statement that the submitted toxicology studies are sufficient to satisfy the data requirements of the Act.
- 6) The sponsor feels that partially analyzed chemicals should not be used in areas where there is a greater chance of exposure to developing children, given that the evaluation done by DPR to determine whether a full risk assessment needs to be completed before conditional or interim registration is granted, also uses a variety of factors which are more suited to risk management than risk assessment (i.e., projected use patterns and sufficiency of labeling and instructions). (For

a fuller discussion of the difference between evaluation and risk assessment, and acute versus chronic risk, please see Comment section of Assembly Floor Analysis, May 4, 2005.)

7)Opposition asserts that its products undergo rigorous testing and must be approved by both the U.S. Environmental Protection Agency and DPR before being offered for sale in California. It feels that prohibiting the use of a conditionally registered product only serves to further delay the use of these important chemicals in California's schools.

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