

# THE COSMETIC PESTICIDES ACT

## A LAW TO REGULATE, RESTRICT, AND PROHIBIT THE SALE AND USE OF POTENTIALLY HARMFUL PESTICIDES USED FOR COSMETIC PURPOSES WITHIN THE PROVINCE OF BRITISH COLUMBIA

WHEREAS cosmetic pesticides are known to expose humans and animals to harmful carcinogens; and

WHEREAS cosmetic pesticides are known to contain neurotoxins and endocrine disrupting chemicals; and

WHEREAS cosmetic pesticides are known to have detrimental health effects on non-target animals, plants, and their habitats;

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

### Short Title

1. This Act may be cited as “The Cosmetic Pesticides Act”.

### Interpretation

2. In this Act and Schedule I,

“**agriculture**” means the production of crops for commercial trade.

“**child-centered area**” means a child care facility, park, playground, schoolyard, or sports field.

“**cosmetic**” means non-essential, or an item used for the intention of improving or maintaining an esthetic quality.

“**enforcement officer**” means an enforcement officer designated in Section 16.

“**minister**” means the Minister of Environment or someone designated to act on the Minister of Environment’s behalf.

“**person**” includes a corporation.

“**pesticide**” means a micro-organism or material that is represented, sold, used or intended to be used to prevent, destroy, repel or mitigate a pest, and includes

- (a) a plant growth regulator, plant defoliator or plant desiccant,
- (b) a control product as defined in the *Pest Control Products Act* (Canada), and
- (c) a substance that is classified as a pesticide by regulation.

“**sell**” includes barter or distribute, offer, expose, advertise or possess for the purpose of selling.

“**use**” means the placement or application of a pesticide, or the mixing, dilution, or loading of a pesticide for the purpose of placing or applying it.

## **Bylaws are Operative**

3. Nothing in this Act affects a municipality's or regional district's power to make bylaws to regulate, restrict, or prohibit the sale or use of pesticides used for a cosmetic purpose.
4. Where there is a conflict between a provision of this Act and a provision of a municipal or regional district bylaw that regulates, restricts, or prohibits the sale or use of pesticides used for a cosmetic purpose, the more restrictive provision prevails.

## **Prohibition on Sale, Transfer, and Use**

5. No person shall sell or transfer a pesticide used for a cosmetic purpose other than a low-risk pesticide prescribed in Schedule I of this Act.
6. No person shall use a pesticide for a cosmetic purpose other than a low-risk pesticide prescribed in Schedule I of this Act.

## **Excepted Uses**

7. Subject to any regulation enacted for the purposes of this section, sections 5 and 6 do not apply to the following uses:
  - (a) Uses related to agriculture
  - (b) Uses related to managing pests that impact forestry
  - (c) Uses related to maintaining golf courses for a period of three years beginning on the day that this Act comes into effect, after which Sections 5 and 6 will apply
  - (d) Uses related to the preservation and promotion of public health and safety
8. A person claiming an exception under Section 7 shall hold a permit required for that purpose and shall comply with the terms and conditions in or attached to that permit.

## **Permits for Excepted Uses**

9. The minister shall designate administrators for the purposes of this Act.
10. A person applying for a permit shall submit to an administrator a permit application that
  - (a) is in the form specified by the administrator,
  - (b) contains the information required by the administrator, and
  - (c) is accompanied by a prescribed fee.
11. An administrator may issue a permit to a person if the administrator is satisfied that the permit application is for a use enumerated in Section 7, and complies with Section 10.
12. An administrator may refuse to grant a permit.
13. If the administrator issues a permit to a person, the administrator shall specify the terms and conditions in or attached to the permit, including

- (a) the name of the permit holder,
- (b) the date on which the permit expires, and
- (c) any other conditions the administrator considers appropriate in the circumstances.

14. An administrator may revoke a permit at any time.

15. An administrator shall disclose a copy of any permit to any person who requests it.

### **Enforcement and Powers of an Enforcement Officer**

16. The minister shall designate enforcement officers for the purposes of this Act.

17. Sections 15 to 24 of the *Integrated Pest Management Act* shall apply, *mutatis mutandis*.

### **Offences**

18. A person who contravenes Section 5 of this Act is liable for a fine not exceeding \$500 for a first offence. For each subsequent contravention of Section 5, that person is liable for a fine not exceeding \$10 000.

19. A person who contravenes Section 6 of this Act is liable for a fine not exceeding \$1000 for the first offence. For each subsequent contravention of Section 6, that person is liable for a fine not exceeding \$20 000.

20. A person who contravenes Section 6 of this Act while in a location the enforcement officer determines to be a child-centered area is liable for a fine listed in Section 18 and an upward variation of not more than 30% of that fine.

21. In addition to a fine, the Attorney General may apply to the Supreme Court for an injunction against any person who, having been convicted of an offence against this Act, continues to contravene this Act or any related regulation, ordering the to cease selling, transferring, or using pesticides for a cosmetic purpose in British Columbia until the person complies with this Act or any related regulation.

### **Appeals to the Environmental Appeal Board**

22. Section 14 of the *Integrated Pest Management Act* shall apply, *mutatis mutandis*.

### **Education**

23. The provincial government shall develop and execute ongoing public education and awareness-raising programs providing information to the public on

- (a) why restrictions exist on the sale and use of pesticides for cosmetic purposes, including health and environmental impacts of use,
- (b) sustainable landscape management practices,
- (c) authorized active ingredients as prescribed in Schedule I,

and shall provide any other ongoing education deemed helpful in fulfilling the purposes of this Act.

### **Monitoring Act Effectiveness**

24. The minister shall collect and maintain statistics related to enforcement of this Act, including names of persons found to be in violation of this Act, and semi-annually make recommendations to the government for improving the effectiveness of this Act.

### **Public Accountability**

25. The minister shall semi-annually deliver a report to the public discussing the effectiveness of this Act and recommendations for improving the effectiveness of this Act. The report shall include the statistics, names of persons found to be in violation of this Act, and recommendations contained in the report to government mandated by Section 24.

### **Creation and Revision of Schedule I**

26. The minister shall create Schedule I, which shall list authorized low-risk pesticides.

27. The minister may add low-risk pesticides to Schedule I at any time.

28. The minister shall establish a funded multi-stakeholder committee that shall semi-annually

- a) add to Schedule I low-risk pesticides as they emerge on the market or are discovered,
- b) remove from Schedule I any item that could contravene the purposes of this Act, and
- c) publicly disclose the names and occupations of the committee's members.

### **Severability**

29. If any provision or provisions of this Act shall be held to be invalid, illegal, unenforceable, or in conflict with a law of provincial or federal jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

### **Commencement**

30. This Act comes into force by regulation of the Lieutenant Governor in Council.

## **SCHEDULE I AUTHORIZED LOW-RISK PESTICIDES**

*Schedule I shall be created from the low-risk pesticides found in the Pest Management Regulatory Agency's most recent Reduced Risk Update, currently RR2008-01. As mentioned in sections 26 to 28 of the Cosmetic Pesticides Act, the minister or multi-stakeholder committee may add low-risk pesticides to this list. Only the multi-stakeholder committee may remove items from Schedule I.*