

115TH CONGRESS
2D SESSION

S. 3764

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 and the Federal Insecticide, Fungicide, and Rodenticide Act to require the pre- and post-application reporting of, and to establish buffer zones for, restricted use pesticides, to prohibit the use of pesticides containing chlorpyrifos, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2018

Mr. SCHATZ introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 and the Federal Insecticide, Fungicide, and Rodenticide Act to require the pre- and post-application reporting of, and to establish buffer zones for, restricted use pesticides, to prohibit the use of pesticides containing chlorpyrifos, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prohibit Chlorpyrifos
5 Poisoning Students Act of 2018”.

1 **SEC. 2. POST-APPLICATION REPORTING OF PESTICIDE USE;**
 2 **PUBLIC REPORTS.**

3 Section 1491 of the Food, Agriculture, Conservation,
 4 and Trade Act of 1990 (7 U.S.C. 136i–1) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2), by striking “(2)
 7 Within 30 days” and inserting the following:

8 “(4) PROVISION TO PERSON FOR WHOM APPLI-
 9 CATION OCCURRED.—Within 30 days”; and

10 (B) in paragraph (1)—

11 (i) by striking “(1) The Secretary”
 12 and inserting the following:

13 “(1) IN GENERAL.—The Secretary”; and

14 (ii) by striking “comparable to
 15 records” in the first sentence and all that
 16 follows through the period at the end of
 17 the second sentence and inserting the fol-
 18 lowing: “of the use of those restricted use
 19 pesticides for a 2-year period after that
 20 use.

21 “(2) CONTENTS.—Records maintained under
 22 paragraph (1) shall include information describing—

23 “(A) a listing, by Federal and State reg-
 24 istrations or permit numbers, commercial prod-
 25 uct names, and active ingredients, of all re-
 26 stricted use pesticides used;

1 “(B) the total quantity used of each re-
 2 stricted use pesticide;

3 “(C) a general description of the geo-
 4 graphic location, including, at a minimum, the
 5 global positioning system coordinates, at which
 6 the restricted use pesticides were used; and

7 “(D) the date on which the restricted use
 8 pesticide application occurred.

9 “(3) SUBMISSION TO ADMINISTRATOR.—Not-
 10 withstanding section 11(d) of the Federal Insecti-
 11 cide, Fungicide, and Rodenticide Act (7 U.S.C.
 12 136i(d)), beginning January 1, 2019, not later than
 13 30 days after the end of each quarter of a calendar
 14 year, each certified applicator of restricted use pes-
 15 ticides described in paragraph (1) shall submit to
 16 the Administrator of the Environmental Protection
 17 Agency, for use by the Administrator of the Envi-
 18 ronmental Protection Agency, a quarterly report de-
 19 scribing all use of those restricted use pesticides
 20 during the preceding quarter, including the informa-
 21 tion described in paragraph (2).”; and

22 (2) in subsection (b)—

23 (A) in the fourth sentence, by striking
 24 “State agency” and inserting the following:

25 “(B) STATE AGENCIES.—State agency”;

(B) in the third sentence, by striking “In the case of Federal agencies, such” and inserting the following:

“(B) EPA PUBLIC REPORTS.—Based on the reports submitted under subsection (a)(3), the Administrator of the Environmental Protection Agency shall make publicly available a summary, by State and county, of—

“(i) the total quantities of each restricted use pesticide used, by Federal and State registrations or permit numbers, commercial product names, and active ingredients; and

“(ii) the total number of acres in the State and county in which the restricted use pesticide application occurred.

“(3) REQUESTS FOR ACCESS.—

“(A) FEDERAL AGENCIES.—In the case of Federal agencies (other than the Environmental Protection Agency),”;

(C) in the second sentence, by striking “Each such Federal agency” and inserting the following:

“(2) USE BY FEDERAL AGENCIES.—

1 “(A) IN GENERAL.—Each Federal agency
2 described in paragraph (1)”;

3 (D) in the first sentence, by striking
4 “Records” and inserting the following:

5 “(1) IN GENERAL.—Records”.

6 **SEC. 3. PRE-APPLICATION NOTICE OF PESTICIDE USE.**

7 Section 11 of the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 136i) is amended by adding at
9 the end the following:

10 “(f) PRE-APPLICATION NOTICE OF PESTICIDE
11 USE.—Not later than 7 days before the application of a
12 pesticide classified for restricted use, a certified applicator
13 of restricted use pesticides shall post signage in the area
14 in which the application is to occur that is reasonably cal-
15 culated to provide notice of the application.”.

16 **SEC. 4. BUFFER ZONES.**

17 Section 12(a) of the Federal Insecticide, Fungicide,
18 and Rodenticide Act (7 U.S.C. 136j(a)) is amended—

19 (1) in paragraph (2)—

20 (A) in subparagraph (R), by striking “or”
21 at the end;

22 (B) in subparagraph (S), by striking the
23 period at the end and inserting “; or”; and

24 (C) by adding at the end the following:

“(T) to apply a pesticide classified for restricted use or an organophosphate pesticide on, or within a buffer zone of, a school property in violation of paragraph (3).”; and
 (2) by adding at the end the following:

“(3) BUFFER ZONES.—

“(A) DEFINITIONS.—In this paragraph:

“(i) NORMAL SCHOOL HOURS.—The term ‘normal school hours’ means Monday through Friday from 7:00 a.m. until 6:00 p.m., excluding days when classes are not in session.

“(ii) SCHOOL.—The term ‘school’ means any public or private preschool, kindergarten, elementary, intermediate, middle, secondary, or high school.

“(B) PROHIBITION.—Except as provided in subparagraphs (C) and (D), beginning January 1, 2019, no person shall apply a pesticide classified for restricted use or an organophosphate on, or within 300 feet of, a school property during normal school hours.

“(C) EXCEPTION.—Subparagraph (B) shall not apply to whole structure fumigation of

1 a school property, as directed by a State or unit
2 of local government.

3 “(D) CONFLICTS.—If subparagraph (B) is
4 determined to conflict with any pesticide appli-
5 cation information listed on the pesticide label
6 or any State law, the more restrictive provision
7 shall apply.”.

8 **SEC. 5. BAN ON USE OR APPLICATION OF CHLORPYRIFOS.**

9 Section 12(a)(1) of the Federal Insecticide, Fun-
10 gicide, and Rodenticide Act (7 U.S.C. 136j(a)(1)) is
11 amended—

12 (1) in subparagraph (E), by striking “or” at
13 the end;

14 (2) in subparagraph (F), by striking the period
15 at the end and inserting “; or”; and

16 (3) by adding at the end the following:

17 “(G) beginning on the date of enactment
18 of this subparagraph, any pesticide containing
19 chlorpyrifos as an active ingredient, unless, ef-
20 fective for the period beginning on that date
21 and ending on December 31, 2020, a State, on
22 request of a certified applicator, grants to the
23 certified applicator a temporary permit author-
24 izing the certified applicator to use or apply a

1 pesticide containing chlorpyrifos as an active in-
2 gredient.”.

3 **SEC. 6. REGULATIONS.**

4 The Administrator of the Environmental Protection
5 Agency shall promulgate regulations to carry out this Act
6 and the amendments made by this Act.

○