

(S.B. 544)
(Conference)

(No. 278)

(Approved August 21, 1999)

AN ACT

To amend subsections (a), (c), (e), clause 3 of subsection (f), subsections (i), (j), clause (2) of subsection (k), subsections (n), (o), (r), (s), (t), (u) and add three new subsections (v), (w), and (x) to Section 2; amend Section 3, and Section 4; amend subsections (a), (d), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), and add subsections (p), (q), (r), (s), (t), (u), (v), (w), (x) and (y), to Section 5; amend Sections 5A, 5-B, and the first paragraph of Section 5-C; add a new Section 5-D; amend subsection (a) of Section 6; amend Sections 8, 9, 10; amend clauses 3 and 4, and add a new clause 6 to Section 11; and amend Sections 12 and 12A of Act No. 49 of June 10, 1953, as amended, known as the “Pesticide Act of Puerto Rico,” in order to temper the same to the new federal legislation regarding the management of pesticides and the existing environmental situation in Puerto Rico; add new requirements and responsibilities for the manufacturers, distributors, vendors and users of pesticides; to clarify certain technical aspects and their scope; increase the penalties fixed in said Act; and for other purposes.

STATEMENT OF MOTIVES

Pesticides play an important role in the control of insects, molds, nematodes, rodents, and other pests that constitute a nuisance in the environment of industries, farms, and homes; they control the adventitious weeds that compete in the production of foods and fibers, and that are undesirable elements in our environment and regulate the growth of plants to increase the quantity as well as the quality of our sources of foods and fibers and facilitate their harvesting.

New pesticides that are valuable for the control of pests, and used as defoliators, desiccants and the control of weeds, and other related purposes, are being continually discovered, synthesized or developed. However, such pesticides can be ineffective, harmful to humans, or cause unreasonable adverse effects to the environment if they are not used properly. Pesticides can harm humans and animals, whether by direct poisoning, or through the gradual accrual of the residues of said pesticides in their tissues. Crops and other plants can also be affected by the improper use of said pesticides. The run-off or drainage of pesticides towards bodies of water can cause notable harm to aquatic organisms. A pesticide applied for the purpose of killing or eliminating insects in crops that, in themselves, are not affected by that pesticide, may be washed, and/or drained away, damaging or affecting other crops or bodies that are not targeted, and with which the pesticide comes in contact.

The Pesticide Act of Puerto Rico regulates the use of these chemical compounds in Puerto Rico. It must be indicated that this Act dates from 1953. The most recent amendments to it were made in 1986. Nevertheless, since that time, the environment of Puerto Rico has changed to the extent that it becomes necessary to make the requirements and obligations imposed by said Act on those persons who handle pesticides, more rigorous, regardless of their point of contact in the areas of production, distribution, or sales, and to prevent or avoid the recurrence of the effects caused by said compounds on the environment. Likewise, several laws have been approved by federal authorities that have the effect of regulating the use of these chemical compounds, whether by promulgating regulations for the employers in order to protect the health of agricultural workers who use pesticides, on the employers, and to establish new tolerance parameters as to

the amount of pesticides present in foods, among others. It is of vital importance for the health of our people and for the normal operation and fiscal support of the agencies that regulate the use of pesticides in Puerto Rico, to temper the “Pesticide Act of Puerto Rico” to the federal regulatory statutes that refer to the use and handling of pesticides.

Furthermore, the manufacture, distribution, transportation, sale, use and application of pesticides in the United States is strictly regulated, not only by the federal government but also by the state governments, as in other countries. It is therefore necessary to not only regulate the distribution, transportation, and sale of pesticides and sprayers, but also the manufacture, storage, use and application thereof in Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Subsections (a), (c), (e), clause 3 of subsection (f), subsections (i) and (j), clause (2) of subsection (k), subsections (n), (o), (r), (s), (t), (u), are hereby amended, and subsections (v), (w), and (x) added to Section 2 of Act No. 49 of June 10, 1953, as amended, to read as follows:

“Section 2.—For the purposes of this Act, the following terms shall be defined as follows:

- (a) The word ‘pesticide’ shall include any substance or mixture of substances prepared, labeled, destined, advertised, or with the capacity to counteract, destroy, prevent, sterilize, repel or mitigate the action of any pest and any substance or mixture of substances that are prepared, labeled, or designed to be used as a defoliant, desiccant, and growth regulator of plants. For the purposes of this Act, the terms ‘pesticide’ and ‘pesticides’ replace the phrases ‘economic poison’ and ‘economic poisons,’ respectively, wherever these terms appear in this Act.

- (b)
- (c) The term ‘person’ includes any individual, partnership, association, corporation, or any other organized group of natural or juridical persons, whether they are incorporated or not. The term also applies to all the subdivisions of the Commonwealth of Puerto Rico, or any of its agencies, instrumentalities or structures.
- (d)
- (e) The word ‘sticker’ (label) shall refer to any written, printed or stamped material on any pesticide or device and on any wrapping or receptacle used for the sale of any pesticide or any device.
- (f) The term ‘labeling’ includes all the labels, stickers, or any other written, printed or graphic material:
 - (1)
 - (2)
 - (3) to which reference is made on the label or literature accompanying the product, with the exception of those on which exact reference is made to the official publications of any branch of the Government of the Commonwealth of Puerto Rico, or of any Department of the Government of the United States, of the experimental stations, state colleges or any other similar federal institution, or of those states that are authorized by law to conduct research in the area of pesticides.
- (g)
- (h)
- (i) The term ‘registration’ is the action that every manufacturer of pesticides and devices in Puerto Rico should perform, as well as

any representative or agent in Puerto Rico of the manufacturer of pesticides and devices produced outside of Puerto Rico and introduced to the Island, to register each pesticide or device every two (2) years with the Secretary. The Secretary shall establish through regulations, the requirements and responsibilities of the manufacturer(s), and the representative(s) or agent(s) of the manufacturer, with regard to the import and subsequent distribution and sale of the pesticide or devices in question in Puerto Rico.

(j) The term ‘adulterated’ shall apply to any pesticide if its degree of strength or purity differs from the standard stated on the label under which it is sold, or if any substance has been substituted, in whole or in part by said pesticide, or if any valuable ingredient thereof has been wholly or partly extracted.

(k)

(1)

(2)

(a)

(b) if is were an imitation of, or is sold or distributed under the name of another pesticide;

.

(c)

(d)

(e)

(f)

(g)

(h)

(i) if the immediate container, and the outer container or wrapping of the retail package, should there be one, through which the information required in the immediate container cannot be clearly read, has no label with the following information:

1. the name and address of the manufacturer (registrant) or person for whom the pesticide was manufactured;

2.

3.

4.

(j)

(k) that the Secretary deems it 'misabeled' for any other reason, or is deemed 'misabeled' by the United States Environmental Protection Agency (EPA).

...

(n) The term 'pest' means any life form that competes with man, animals and plants for food and nutrients; harms animals, plants, and man or his properties; constitutes a nuisance or causes discomfort to man and domestic animals; or spreads organisms that cause illness in man, animals and plants and that the Secretary declares as such under the regulations in effect.

(o) The term 'plant regulator' means a substance or mixture of substances used to accelerate or delay through physiological action, the rhythm of growth or ripening, or to alter the behavior of plants or their products in any other way. Said term shall not include substances intended to be used as plant nutrients, minor elements, nutritional chemical products, plant inoculants and soil modifications. Nor shall it include any of the mixtures of

nutrients or soil modifiers known as horticultural hormonal vitamin products, which are neither toxic nor poisonous in undiluted concentrations, packaged and intended for the improvement, maintenance, survival, healing and propagation of plants and not for the destruction of pests.

...

- (r) The term 'certified applier' means any individual who is certified to acquire, use, or supervise the use of any pesticide, classified as of restricted use under the classification for which it is certified pursuant to Section 5-A of this Act.
- (s) The term 'private applier' means a certified applier who acquires, uses or supervises the use of any pesticide classified as of restricted use, in order to produce any agricultural product on a property owned or leased by him or her, or by his or her employer; or on the property of another person, as part of an exchange of services without any financial compensation whatsoever.
- (t) The term 'commercial applier' means a certified applier who acquires, uses, or supervises the use of any pesticide classified as of restricted use, and which is not covered by the definition of 'private applier.' Any employee of a government agency or division who applies pesticides as part of the functions or duties of his position, shall be deemed to be a commercial applier and shall comply with the regulations promulgated by the Secretary.
- (u) The term 'to distribute' means to furnish any pesticide or device.
- (v) The term 'to sell' means to offer any pesticide or device to any person in any way, in exchange for financial compensation.

- (w) The term ‘manufacture’ includes any form of processing pesticides or devices in Puerto Rico, including packing and repacking.
- (x) The term ‘environment’ includes water, air, earth, plants, animals, man, and any living organism and their inter-relationship.”

Section 2.—Section 3 of Act No. 49 of June 10, 1953 as amended, is hereby amended to read as follows:

“Section 3.—The following acts are hereby prohibited:

- (a) The introduction, use, storage, distribution, sale or offer to send, receive, deliver or offer to deliver or transport any pesticide or device:
 - (1) that is not registered in the Department of Agriculture of Puerto Rico;
 - (2) that is adulterated or mislabeled;
 - (3) whose label differs from the label under which it was registered in the Department of Agriculture of Puerto Rico;
 - (4) whose container has lost its effectiveness to prevent the escape of the product, or whose container fails to meet the requirements of this Act or the regulations promulgated there under, or the federal laws and regulations.
- (b) The use or application of any pesticide or device in ways that do not comply with the instructions for its use which appear on its label;
- (c) The introduction, distribution, sale and use of any pesticide that lacks federal registration, that does not meet the requirements for exemption established in this Act or its regulations or the corresponding federal law on pesticides or its regulations.”

Section 3.—The first paragraph of Section 4 of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 4.—The Secretary is hereby empowered to draft, promulgate, amend and annul regulations, orders, rules, and directives of a general or specific nature needed to achieve the purposes of this Act, as well as to prohibit, condition and control the sale, purchase, import, transportation, storage, manufacture, use and application of pesticides that might cause noxious effects on man or the environment in Puerto Rico.

.....”

Section 4.—Subsections (a), (d), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), are hereby amended, and subsections (p), (q), (r), (s), (t), (u), (v), (w), (x) and (y) added to Section 5 of Act No. 49 of June 10, 1953, as amended, to read as follows:

“Section 5.—The Secretary is hereby empowered to:

(a) Promulgate such regulations and establish such quality standards that are necessary, in his judgment, to prevent the import, distribution, transportation, storage, sale and use of adulterated and mislabeled pesticides and devices in Puerto Rico.

.....

(d) Require every two (2) years the registration of all pesticides and devices sold in Puerto Rico, including those for special local use; provided, that so that they may be distributed in Puerto Rico it shall be an indispensable requirement that every pesticide or device be registered in the Department of Agriculture of Puerto Rico by the Puerto Rico representative(s) or agent(s) of the manufacturer of the pesticide or device produced outside of

Puerto Rico and introduced into Puerto Rico, or by the manufacturer of the pesticide or device in Puerto Rico.

It shall be understood that the manufacturer shall guarantee the formula and analysis of the pesticide as long as it is kept unopened in its original container; and guarantee the device, while the pesticide is part of it. Said guarantee shall also apply to the pesticides contained in those original containers from which an authorized representative of the Department has removed an official sample, and has sealed them as provided in Section 9 of this Act.

Should the Secretary determine that the pesticide is such that it does not guarantee the properties, effects and results claimed by the product, or if for any other reason the Secretary deems it appropriate or necessary, the latter may, prior to registering the product, require that the applicant submit the complete formula of the pesticide, including all its active and inert ingredients, as well as a complete description of the tests made with said pesticide and the results obtained, and any other information that the Secretary may deem necessary to determine the effective and safe use of the product. The Secretary shall inform the applicant, in writing, which information is needed, and the reason it is being required, and shall provide a reasonable period of time to respond to said requirement. The information thus obtained shall be confidential. It shall be illegal for any person to use the formula or formulas specified in this Act for his/her own benefit, or to reveal said formula or formulas to any person other than the Secretary or the duly authorized officials or

employees of the Department of Agriculture, or of the Commonwealth of Puerto Rico. Also excepted are the Courts of Justice of the Commonwealth of Puerto Rico, in response to a judicial order under admonishment of contempt, or a doctor, or in case of an emergency, a pharmacist and/or other persons authorized to that effect, to use said formula or formulas in the preparation of antidotes.

- (e) Require a registration fee, which shall be established through regulations, and which shall have an effectiveness of two (2) years for each brand of pesticide or device thus registered. Each pesticide shall be registered separately, as well as those under special permits for local needs, and those emergency permits granted under Sections 24 and 18, respectively, of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and supplementary registries of products and permits for experimental use. Said registration fees shall be paid by the applicant for their registration.

A reasonable fee may also be established, through regulations, for sales reports, Private or Commercial Applier's Certificate by category and for licenses issued to establishments that sell restricted-use pesticides.

- (f) Establish by regulations, the equipment requirements, the minimum facilities needed, and the registration and reports regarding the:
 - (1) manufacture, packing, and repacking of pesticides and devices in Puerto Rico.

- (2) sale or distribution of pesticides or devices, including their segregation at all times until their sale and delivery and their exclusion from self service systems.
 - (3) application of pesticides or devices.
- (g) Require licenses for natural or juridical persons who are engaged in the:
- (1) manufacture, packing, and repacking of pesticides and devices.
 - (2) sale or distribution of pesticides or devices.
 - (3) commercial application of pesticides or devices.
 - (4) transportation of pesticides or devices.
 - (5) import and export of pesticides and devices.

To such effects, the Secretary is hereby authorized to:

- (1) Fix a reasonable fee for each of said licenses and their term of effectiveness;
- (2) Establish the requirements for granting licenses;
- (3) Require the posting of a bond, when the Secretary determines the need therefore to guarantee payment for any loss or damage during the production, application or handling of pesticides;
- (4) Require that the party interested in obtaining any of these licenses submit a certificate or attesting evidence to the satisfaction of the Secretary indicating that the corresponding license, certification, permit or authorization accrediting compliance with the regulations of those Commonwealth or Federal departments or agencies that also

regulate some of the activities for which a license is required under this Act are in fact in effect.

- (h) Inspect the establishments where pesticides and devices are manufactured, mixed, packed or repacked, stored, sold, and distributed in order to determine whether they comply with the minimum requirements and facilities established through regulations, and inspect, for the same purpose, the activity of applying pesticides, as well as the establishments, facilities and equipment of the persons engaged in said activity.
- (i) Require that the supervisors, managers or persons in charge of directing and operating any business where pesticides are manufactured, packed or repacked, or where devices are manufactured in Puerto Rico, including the operators of such businesses, meet certain minimum requirements with regard to their education, abilities and skills. The Secretary shall also have the power to require such minimum requirements as regards the personnel employed in any business for the distribution, sale, storage and application of pesticides.
- (j) Refuse to register or to cancel the registration of any pesticide or device when he/she determines that it does not meet the requirements of this Act or its regulations, or when through federal or state government tests or analyses it is determined that its properties, effects, or results are not those claimed for the product, or when the establishments where pesticides are manufactured, packed or repacked fail to meet the minimum requirements and facilities established in the regulations promulgated by him/her, or when the sole use of a pesticide or

device is for purposes that are not applicable in Puerto Rico, such as for crops and/or insects that do not exist in Puerto Rico, for crops that are not usually planted in Puerto Rico, or when such action is necessary to prevent an imminent risk to public health or the environment. It shall be understood that a pesticide or device constitutes an imminent risk to public health or the environment when the existing evidence is sufficient to demonstrate a threat or danger that must immediately be eliminated. The Secretary may require that attesting evidence be submitted to him/her so to the results of the corresponding tests or analyses. He/she may also refuse to register any pesticide or device when the evidence submitted by the applicant is not conclusive or definitive enough to establish that its properties, effects or results are those claimed for the product.

.....

- (l) Prohibit in the regulations that promulgate the sale, as well as the use of a pesticide by any person or persons, for a use or purpose other than that which the product was registered.
- (m) Designate pesticides and devices within a classification that shall be denominated for 'restricted use'. This classification shall include those pesticides or devices whose high toxicity, residual effects or other characteristics or properties make it necessary to adopt special measures or care, take special regarding their sale, use, or application, because they may harm or injure the applier, man, useful animals and vegetation and the environment. A pesticide or device may be classified as such, even though it controls, destroys or prevents the pests against which they are

claimed to be effective. They pesticides and devices classified for restricted use may only be sold, distributed, used, labeled, stored or applied in the manner and under the conditions established by the Secretary. To classify a pesticide or device as for restricted use, the Secretary may request the advice of other pertinent agencies of the Government of Puerto Rico, such as the Environmental Quality Board, the Department of Health and the Agricultural Experimental Station of the University of Puerto Rico, which must provide the required advice. He/she may also seek advice from the pertinent agencies of the Government of the United States of America.

- (n) Restrict or prohibit the use of certain types of containers or the manner in which a pesticide or device is prepared or used when in his/her judgment, such measures must be adopted for the protection of man, useful animals vegetation and the environment.
- (o) Refuse to register or to cancel the registration of any pesticide or device when it is determined that false, altered and/or fraudulent information has been given.
- (p) Require that the registrant of pesticides and devices furnish a bi-annual report of pesticide sales in Puerto Rico or when required by the Secretary. This report shall include, among others, the name, type of pesticide, active ingredient(s), manufacturer, registration number, amount sold, amount purchased and total inventory during the semester. The information required in this subsection shall be deemed confidential. Said report shall be rendered within thirty days following the end of each semester of the calendar year. When a pesticide has been distributed in Puerto

Rico in violation of Section 5(d) of this Act, and therefore not been registered, the person who has distributed said pesticide shall be bound to submit the abovementioned report, besides being subject to the penalties provided therein.

- (q) Require that every pesticide applier who causes the spill of any pesticide take the necessary measures established in the regulations to clean the name and protect the living organisms and the environment from contamination; as well as to impose sanctions and penalties.
- (r) Establish through regulations the requirement of informing the public and/or the Department, before, during, or after any pesticide is sprayed when the Secretary determines that doing so is necessary to protect the public health, plants, animals or the environment.
- (s) Establish and promulgate the programs, standards and regulations needed to develop in the Commonwealth of Puerto Rico, the provisions established by the United States Environmental Protection Agency to implement the Federal Insecticides, Fungicides and Rodenticides Act, (FIFRA), as amended, to include:
 - 1. the protection of endangered species.
 - 2. the protection of the appliers and the agricultural pesticide workers.
 - 3. the protection of surface and underground waters.
 - 4. those rural communities close to the contamination.
 - 5. the urban zone.

- (t) Take samples to analyze those agricultural products produced in Puerto Rico as well as those that are introduced or imported to Puerto Rico so as to determine that any pesticide residue in said products is within the tolerance limits established and supervised by the Federal Environmental Protection Agency and the Federal Food and Drugs Administration, and that said pesticide is the one approved for the specific product. To such end the Secretary may establish the needed agreements, covenants and contracts.
- (u) Receive or initiate complaints regarding the violation of laws, regulations, ordinances and directives related to pesticides; the Secretary is also authorized to institute the necessary proceedings to prevent said violations and to impose penalties and sanctions pursuant to the law.
- (v) Study any regulations promulgated by any other Federal or Commonwealth government entity related to the use, application, control, storage, import, export or disposal of pesticides, as well as draft and promulgate the regulations needed to ensure their compliance and establish the mechanisms needed to achieve an effective coordination.
- (w) Conduct and supervise educational programs related to the use of pesticides or to the diagnosis or treatment of poisoning by pesticides.
- (x) Coordinate and supervise programs for the purpose of determining the effects, hazards, and effectiveness of the use and application of pesticides on man and the environment.
- (y) Establish and regulate the imposition of fees to cover the cost of the chemical analysis of any product that is mislabeled, and of the

samples obtained during the investigation of complaints, spills and incidents that involve pesticides, when it is determined that there was negligence or improper practices in the use, application, storage or transportation of a pesticide, as well as the taking of samples for the analysis of the agricultural products required in subsection (t) of this Section.”

Section 5.—Section 5-A of said Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 5-A.—

The Department of Agriculture is hereby authorized to administer and enforce compliance in Puerto Rico with the plan to certify pesticide appliers that it adopts by virtue of the provisions of this Act and of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

To adopt said plan, the Secretary is empowered to:

- (a) Establish standards for the certification of pesticide appliers by type of certificate, categories and sub-categories.
- (b) Require that the persons who apply to operate as pesticide appliers pass approve written and/or practical oral examinations in the use and handling of pesticides in order to determine their aptitude and capability to operate as such.
- (c) Certify pesticide appliers as commercial appliers under a category, or as private appliers, according to the type of activity they perform, and issue the corresponding certification after they have met the requirements established in this Act and the regulations promulgated by virtue thereof.
- (d) Refuse to certify any applicant as a pesticides applier who fails to fulfill, to the satisfaction of the Secretary, the practical

requirements on the use and handling of pesticides in order to determine their aptitude or capability to operate as such.

(e) Deny, suspend, or revoke the certification granted to any applier pursuant to the procedure established in Section 5-B of this Act, when:

- (1)
- (2) the applier is operating under a type of certification, category or sub-category within which he/she has not been certified by the Secretary;
- (3)
- (4)
- (5)
- (6)
- (7) the applier has submitted false or fraudulent information in an application to obtain or renew a certification to operate as pesticide applier.

(f) Require that every pesticide applier keep or maintain records regarding, among other things, the classes, amounts, application doses, dates and places where such pesticides are applied.

(g) Conduct programs for training and certifying pesticide appliers.

(h) Require that every pesticide applier immediately report to the Department of Agriculture immediately after any accident that occurs which involves any pesticide under his responsibility.”

Section 6.—Section 5-B of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 5-B.—

It shall be the duty of the Secretary to hear at an administrative hearing any party aggrieved by a refusal to have a license, certification or registration issued under this Act, provided said party so requests within the thirty (30) days following the date on which the notice of such determination is mailed.

It shall also be the duty of the Secretary to hold administrative hearings to give the aggrieved party the opportunity of being heard before suspending or canceling any license, certification or registration.

The validity of any determination of the Secretary may be challenged by any aggrieved party after said administrative hearings have been held. The challenge may be made through a petition for review before the Superior Court of Puerto Rico within the fifteen (15) days following the official notice thereof, said date being understood to be the date the notice was remitted by certified mail to the aggrieved party or his/her attorney. Said review shall be limited to questions of law, and the findings of fact of the Secretary, supported by substantial evidence in the record, shall be conclusive. The party aggrieved by the decision of the Superior Court may file a petition for review thereof through a writ of certiorari issued by the Supreme Court of Puerto Rico within twenty (20) days after the decision was notified. The Supreme Court may issue the writ if it deems the petition meritorious, but in no case shall it suspend the effects of the decision of the Superior Court until the review is resolved.”

Section 7.—The first paragraph of Section 5-C of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 5-C.—The Department of Agriculture is hereby authorized to require the notification, and establish requirements for overseeing or

monitoring and notification of the permit for the application of pesticides in Puerto Rico under a Federal permit for the experimental use of pesticides, as well as to administer and enforce the plan for issuing permits for the experimental uses of pesticides adopted by virtue of the provisions of this Act and of the Federal Insecticides, Fungicides and Rodenticides Act. To adopt and put said plan into effect, the Secretary is hereby empowered to:

.....”

Section 8.—A new Section 5-D is hereby added to Act No. 49 of June 10, 1953, as amended, to read as follows:

“Section 5-D.—The Secretary is hereby empowered to petition the Federal Environmental Protection Agency for any exemption or dispensation allowable under the Federal Insecticides, Fungicides and Rodenticides Act, (FIFRA) as amended, included under Sections 18 and 24 (C) of said Federal Act.

The Secretary shall determine, through regulations, the requirements for said dispensations and may establish the agreements, working committees, requirements for data and information, etc., and standards that he/she may deem necessary, including the notification and requirements regarding any type of experiment that is performed in Puerto Rico.

The Secretary is hereby empowered to issue emergency exemptions pursuant to the provisions of Section 18 of the abovementioned Federal law, as well as of this Act, after obtaining said authorization from the Federal Environmental Protection Agency. The granting of said registries shall comply with the terms and conditions of said authorization and any other rule or regulation promulgated under Federal jurisdiction.”

Section 9.—Subsection (a) of Section 6 of Act No. 49 of June 10, 1953, as amended is hereby amended to read as follows:

“Section 6.—The Secretary is hereby empowered to:

- (a) perform all the functions and take any steps needed to regulate and inspect the pesticides and devices manufactured, distributed, sold, transported into, or used in Puerto Rico.”

Section 10.—Section 8 of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 8.—Effectiveness and Regulations

The regulations promulgated by the Secretary under the authority conferred by this Act, shall have the force of law once the requirements established in the Puerto Rico Uniform Administrative Procedures Act, Act No. 170 of August 12, 1988, as amended, have been met.

Whenever any regulation or amendment to the regulations promulgated by the Secretary requires that those persons already engaged in the regulated activities acquire additional equipment or facilities, the Secretary shall grant a term of ninety (90) days as of the date of effectiveness of the regulations or the amendment to the corresponding regulation for said persons to comply with the provisions of said regulations.”

Section 11.—Section 9 of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 9.—In order to put into effect this Act and the regulations promulgated by virtue thereof, the Secretary or his/her duly identified representatives is hereby invested with the power to enter any building, store, warehouse, ship or vehicle where pesticides or devices are manufactured, bottled, packed, repacked, transported, stored, or offered for sale. They may obtain samples for analysis or testing from any lot, container, package, case or receptacle that contains, or is suspected to contain a pesticide. The Secretary or his/her representative may, likewise,

have access to and copy all information regarding the deliveries, transactions and movement or retention of pesticides and devices.

Likewise, the Secretary, or his/her representative, is hereby empowered to enter any establishment or place where pesticides are being applied to verify that they are being used according to the provisions of this Act and the regulations promulgated by virtue thereof.

In order to enforce compliance with the provisions of this Act and the regulations promulgated by virtue thereof, or when there is reason to believe that its provisions are being violated, the Secretary is hereby empowered to resort to any competent court of justice to obtain search warrants so as to be able to enter any of the establishments or places mentioned herein and perform the inspections authorized in this Section, as well as to copy all information related to the deliveries, transactions, and movement or retention of pesticides or devices.

It shall be the obligation of every manufacturer, distributor, vendor, importer, or any other person engaged in the sale or distribution of pesticides in Puerto Rico to allow that samples be taken in their respective establishments by any authorized representative of the Department.

The Secretary shall regulate, among other things, the amount of the product that shall be taken as an official sample and how to identify the same. If the owner, operator, agent or representative in charge of the place at the time it is being inspected, the authorized inspector or authorized official of the Department shall advise him/her of the intention to conduct an inspection and/or take samples, shall inform the latter of the reason for said inspection and shall provide him or her with a written notice of said inspection. Upon being so notified no person shall prevent the authorized

representative of the Department to conduct or perform said inspection and/or the taking of samples.”

Section 12.—Section 10 of Act No. 49 of June 10, 1953, as amended is hereby amended to read as follows:

“Section 10.—The Secretary may issue a removal order against any pesticide or device that, in his judgment, is being distributed in violation of any of the provisions of this Act or the regulations promulgated thereunder. It is hereby prohibited to distribute or in any way dispose of a lot of pesticides or devices thus removed from sale without the prior written authorization of the Secretary or of a competent Court of Justice. Any person who distributes or otherwise disposes of a lot of pesticides thus removed, without the prior written authorization of the Secretary or a competent Court of Justice, shall incur a misdemeanor and upon conviction shall be punished with the penalty of imprisonment not to exceed ninety (90) days, or a maximum fine of five thousand (5,000) dollars, or both penalties at the discretion of the Court.

The Secretary may suspend the removal order against a lot of pesticides or devices when the violations have been corrected to his satisfaction within a term of forty-five (45) days from the date the removal order was issued. When the violations are not corrected within that period the lot of pesticides or devices shall be removal, subject to destruction, or disposal in any manner provided by a competent Court of Justice at the request of the Secretary. The distributor of the product may appeal the decision of the Secretary within forty-five (45) days of the notice for the destruction or other manner of disposal. Should the Secretary fail to accede to the petition of the distributor, the latter may appeal to a competent Court of Justice within

thirty (30) days from the date the notice of denial of the Secretary was issued.”

Section 13.—Paragraph 3 and paragraph 4 are hereby amended and a new paragraph 6 is hereby added to Section 11 of Act No. 49 of June 10, 1953, as amended to read as follows:

“Section 11.—In addition to what has been previously provided in this Act, the Secretary of Agriculture, subject to the procedure provided by Section 5-B of this Act, may deny, suspend, or cancel any registration, license, certification or permit granted under the authority of this statute for any of the following reasons:

1.
2.
3. For not having rendered the biannual sales report of pesticides and devices required under the authority of subsection (p) of Section 5 of this Act, within the term established by this Act;
4. For having made any false or misleading statement in any biannual sales report required under authority of this Act;
5.
6. When the person does not comply with the regulations promulgated by virtue of Act No. 49, and when said person or his/her employee, by force, holds up, resists, opposes and impedes, interferes, obstructs or disturbs an official while engaged in the performance of his official duties under this Act.”

Section 15.—Section 12-A of Act No. 49 of June 10, 1953, as amended, is hereby amended to read as follows:

“Section 12-A.—Any natural or juridical person who, with fraudulent intention, uses or reveals the information regarding the formulas of products

acquired under the authority of this Act, shall be guilty of a misdemeanor, and upon conviction, shall be punished with a fine of not less than three hundred (300) dollars, nor of more than seven hundred (700) dollars, for the first infraction; and for every subsequent infraction, shall be punished with a fine of not less than five hundred (500) dollars, nor of more than one thousand (1,000) dollars, or for a term of imprisonment not less than thirty (30) days nor of more than six (6) months, or both penalties at the discretion of the Court.”

Section 16.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 278 (S.B. 544) (Conference) of the 5th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend subsections (a), (c), (e), clause 3 of subsection (f), subsections (i), (j), clause (2) of subsection (k), subsections (n), (o), (r), (s), (t), (u) and add three new subsections (v), (w), and (x) to Section 2; amend Section 3, and Section 4; amend subsections (a), (d), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), and add subsections (p), (q), (r), (s), (t), (u), (v), (w), (x) and (y), to Section 5; amend Sections 5A, 5-B, and the first paragraph of Section 5-C; add a new Section 5-D; amend subsection (a) of Section 6; amend Sections 8, 9, 10; amend clauses 3 and 4, and add a new clause 6 to Section 11; and amend Sections 12 and 12A of Act No. 49 of June 10, 1953, as amended, known as the “Pesticide Act of Puerto Rico,” etc.,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 25th of April of 2003.

Elba Rosa Rodríguez-Fuentes
Director