

§ 69-23-101. Short title.

Mississippi Statutes

Title 69. AGRICULTURE, HORTICULTURE, AND ANIMALS

Chapter 23. MISSISSIPPI PESTICIDE LAW

PESTICIDE APPLICATION

Current through 3/27/2018

§ 69-23-101. Short title

Sections 69-23-101 through 69-23-135 may be known as the "Mississippi Pesticide Application Law of 1975."

Cite as Miss. Code § 69-23-101

Source: Laws, 1975, ch. 318, § 1; Laws, 2005, ch. 533, §20, eff. 7/1/2005.

§ 69-23-103. Administration.

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§ 69-23-103. Administration

Sections 69-23-101 through 69-23-135 shall be administered by the Commissioner of the Mississippi Department of Agriculture and Commerce, or his agent, herein referred to as the "commissioner."

Cite as Miss. Code § 69-23-103

Source: Laws, 1975, ch. 318, § 2; Laws, 2005, ch. 533, §21, eff. 7/1/2005.

§ 69-23-105. Declaration of purpose.

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§ 69-23-105. Declaration of purpose

The purpose of Sections 69-23-101 through 69-23-135 is to provide a means for the state certification of applicators of restricted use pesticides required under the Federal Insecticide, Fungicide and Rodenticide Act, and to regulate in the public interest the use and application of restricted use pesticides, except as the application of restricted use pesticides is regulated under Sections 69-19-1 through 69-19-15 or 69-21-101 through 69-21-128, and to designate the Mississippi Department of Agriculture and Commerce as the agency responsible for administering a plan for certification of applicators of restricted use pesticides and to cooperate with the United States Environmental Protection Agency as provided for in the Federal Insecticide, Fungicide and Rodenticide Act, and for other purposes.

Cite as Miss. Code § 69-23-105

Source: Laws, 1975, ch. 318, § 3; Laws, 1991, ch. 530, § 17; Laws, 2005, ch. 533, §22; Laws, 2009, ch. 515, §13, eff. 4/8/2009.

§ 69-23-107. Definitions.

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§ 69-23-107. Definitions

When used in the context of Sections 69-23-101 through 69-23-135, the following terms shall be ascribed the following meanings:

- (a) "Commissioner" means the Commissioner of Agriculture and Commerce of the State of Mississippi.
- (b) "Certification" means the recognition by a state that a person is competent and thus authorized to use or supervise the use of restricted use pesticides.
- (c) "Certified applicator" means any person who is certified to use or supervise the use of any restricted use pesticide covered by this certification.
- (d) "Commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide that is classified for restricted use for any purpose or on any property other than as provided by the definition of "private applicator."
- (e) "Division" means the Bureau of Plant Industry within the Regulatory Office of the Mississippi Department of Agriculture and Commerce.
- (f) "Division of Plant Industry" means the Bureau of Plant Industry within the Regulatory Office of the Mississippi Department of Agriculture and Commerce.
- (g) "EPA" means the United States Environmental Protection Agency.
- (h) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, as amended.
- (i) "License" means a license, certificate or permit.
- (j) "Person" means any individual, partnership, association, corporation or organized group of persons, whether incorporated or not.
- (k) "Pest" means:
 - (i) Any insects, rodents, nematodes, fungi, weeds; and
 - (ii) Other forms of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria or other microorganism on or in living man or other living animals) that the commissioner declares to be a pest.
- (l) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting any pests; and shall also include adjuvants intended to enhance the effectiveness of pesticides; and any substance or mixture of

substances intended for use as a plant regulator, defoliant or desiccant.

- (m) "Private applicator" means a certified applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned, rented or controlled by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person, subject to regulations adopted under authority granted by Sections 69-23-101 through 69-23-135.
- (n) "Public applicator" means any individual who applies restricted use pesticides as an employee of a state agency, municipal corporation, public utility, or other governmental agency. This term does not include employees who work under direct "on-the-job" supervision of a public applicator.
- (o) "Restricted use pesticide" means any pesticide classified for restricted use by EPA or by the commissioner.
- (p) "State restricted pesticide use" means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the commissioner determines subsequent to a hearing, requires additional restrictions for that use to protect the environment including man, lands, beneficial insects, animals, crops and wildlife, other than pests.
- (q) "Under the direct supervision of a certified applicator" means, unless otherwise prescribed by its labeling, a pesticide that is to be applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though that certified applicator is not physically present at the time and place the pesticide is applied.
- (r) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.
- (s) Words and terms as defined in Sections 69-19-1 through 69-19-15, 69-21-101 through 69-21-128 and 69-23-1 through 69-23-29, when used in Sections 69-23-101 through 69-23-135 shall have the same meaning ascribed therein.

Cite as Miss. Code § 69-23-107

Source: Laws, 1975, ch. 318, § 4; Laws, 1991, ch. 530, § 18; Laws, 2005, ch. 533, §23; Laws, 2009, ch. 515, §14, eff. 4/8/2009.

§ 69-23-109. Commissioner to adopt regulations; reports; regulation by other agencies.

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§ 69-23-109. Commissioner to adopt regulations; reports; regulation by other agencies

- (1) The commissioner may adopt regulations to carry out the provisions of Sections 69-23-1 through 69-23-135.
- (2) In adopting regulations, the commissioner shall give consideration to pertinent research findings and recommendations of other agencies of this state or federal government. The commissioner shall report to the Legislature on or before February 1 of each year any regulation promulgated under this section which is more restrictive than applicable federal regulations.
- (3) Regulations promulgated by the commissioner under Sections 69-23-1 through 69-23-135 shall not be effective until approved by the advisory board created under Section 69-25-3.
- (4) In order to eliminate inequitable application or establishment of opposing regulations, the authority to regulate any matter pertaining to the registration, sale, handling, distribution, notification of use, application and use of pesticides shall vest solely in the Commissioner of Agriculture and Commerce, except where other state agencies, including the Agricultural Aviation Board, exercise such regulatory authority under state law.

Cite as Miss. Code § 69-23-109

Source: Laws, 1975, ch. 318, § 5; Laws, 1992, ch. 539, § 1; Laws, 2005, ch. 533, §24, eff. 7/1/2005.

§ 69-23-111. Licenses and permits.

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§ 69-23-111. Licenses and permits

- (1) After October 21, 1976, it is unlawful for any person to engage in the application or use of any pesticide that is restricted by EPA or the commissioner, except as provided for and defined in Sections 69-19-1 through 69-19-15, 69-21-101 through 69-21-128 and 69-23-1 through 69-23-29, without being certified or licensed by the commissioner.
- (2) The commissioner may classify licenses or permits to be issued under Sections 69-23-101 through 69-23-135. Separate classifications and subclassifications may be specified by the commissioner in conformity with FIFRA. Each classification may be subject to separate requirements of testing procedures.
- (3) Application for license shall be made on a form provided by the commissioner and shall contain information regarding the applicant's qualifications, proposed operations, and license classification or classifications as prescribed by regulations.
- (4) The commissioner shall require each applicant for a certified applicator's license to demonstrate competency by a written or oral examination, or any other equivalent procedure as may be adopted by the commissioner by regulation, that he possesses adequate knowledge with respect to the proper use and application of pesticides in the particular categories or classification for which application for license is made. The commissioner may cooperate with other state, federal and private agencies in preparing, administering and evaluating examinations or other equivalent procedures, including training, for determining competency of certified applicators, and shall consider and be guided by certification requirements set forth by EPA.
- (5) If the commissioner finds the applicant qualified in the classification for which he has applied, he shall issue a certified applicator's license limited to that classification. Expiration dates of licenses may be established by regulation, unless revoked, suspended, denied, cancelled or modified prior thereto by the commissioner for cause as hereinafter provided.

Cite as Miss. Code § 69-23-111

Source: Laws, 1975, ch. 318, § 6; Laws, 2005, ch. 533, §25; Laws, 2009, ch. 515, §15, eff. 4/8/2009.

§ 69-23-113. Nonresident commercial applicators to designate Secretary of State as agent for service of process.

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§ 69-23-113. Nonresident commercial applicators to designate Secretary of State as agent for service of process

Any nonresident commercial applicator applying for a license under Sections 69-23-101 through 69-23-135 to operate in the state shall file a written power of attorney designating the Secretary of State as the agent of such nonresident upon whom service of process may be had in the event of any suit against the nonresident person, and such power of attorney shall be prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicant. Any nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the Secretary of State as such agent. The Secretary of State shall be allowed such fees therefor as provided by law for designating resident agents. The commissioner shall be furnished with a copy of such designation of the Secretary of State or of a resident agent, such copy to be duly certified by the Secretary of State.

Cite as Miss. Code § 69-23-113

Source: Laws, 1975, ch. 318, § 7; Laws, 2005, ch. 533, §26, eff. 7/1/2005.

§ 69-23-115. Violations.

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§ 69-23-115. Violations

It is unlawful for a person to:

- (a) Make false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
- (b) Conduct pest control operations in a faulty, careless or negligent manner or to operate faulty or unsafe pest control equipment;
- (c) Fail to comply with the provisions of Sections 69-23-101 through 69-23-135, or the regulations adopted hereunder;
- (d) Fail to keep and maintain records required by Sections 69-23-101 through 69-23-135 or to make reports when required;
- (e) Make false or fraudulent records, invoices or reports;
- (f) Use fraud or misrepresentation in making application for a license or renewal for a license;
- (g) Aid or abet any person in evading the provisions of Sections 69-23-101 through 69-23-135, or allow one's license to be used by another person;
- (h) Impersonate any state or federal official;
- (i) Commit a violation under FIFRA;
- (j) Use any restricted use pesticide in a manner which is inconsistent with its labeling; or
- (k) Commit any other act or omission specified in the regulations adopted under Sections 69-23-101 through 69-23-135.

Cite as Miss. Code § 69-23-115

Source: Laws, 1975, ch. 318, § 8; Laws, 2005, ch. 533, §27, eff. 7/1/2005.

§ 69-23-117. Records to be maintained by commercial applicators.

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§ 69-23-117. Records to be maintained by commercial applicators

Commercial applicators shall maintain records with respect to the application of pesticides. Such relevant information as the commissioner may deem necessary and the length of time that these records shall be maintained may be specified by the commissioner, and upon request the licensee shall furnish a copy of such records.

Cite as Miss. Code § 69-23-117

Source: Laws, 1975, ch. 318, § 9; Laws, 2005, ch. 533, §28, eff. 7/1/2005.

§ 69-23-119. Exemptions.

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§ 69-23-119. Exemptions

- (1) Any person duly licensed and certified under Section 69-19-1 through 69-19-15 or 69-21-101 through 69-21-128, is exempted from the licensing provisions of Sections 69-23-101 through 69-23-135.
- (2) The commissioner may exempt any other persons as may be exempted by federal regulations.
- (3) The commissioner may exempt public applicators from the requirements of Sections 69-23-113 and 69-23-117.

Cite as Miss. Code § 69-23-119

Source: Laws, 1975, ch. 318, § 10; Laws, 2005, ch. 533, §29; Laws, 2009, ch. 515, §16, eff. 4/8/2009.

§ 69-23-121. Cooperative extension service to conduct courses of instruction and training.

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§ 69-23-121. Cooperative extension service to conduct courses of instruction and training

The Mississippi Cooperative Extension Service shall conduct courses of instruction and training for the purpose of carrying out the provisions of Sections 69-23-101 through 69-23-135.

Cite as Miss. Code § 69-23-121

Source: Laws, 1975, ch. 318, § 11; Laws, 2005, ch. 533, §30, eff. 7/1/2005.

§ 69-23-123. Cooperative agreements.

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§ 69-23-123. Cooperative agreements

The commissioner may cooperate with or enter into formal cooperative agreements with any public or private agency or educational institution of this state or any other state or federal agency for the purpose of carrying out the provisions of Sections 69-23-101 through 69-23-135, to

encourage training of certified applicators and securing uniformity of regulations.

Cite as Miss. Code § 69-23-123

Source: Laws, 1975, ch. 318, § 12; Laws, 2005, ch. 533, §31, eff. 7/1/2005.

§ 69-23-125. Enforcement; investigations.

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§ 69-23-125. Enforcement; investigations

The commissioner shall enforce the provisions of Sections 69-23-101 through 69-23-135. The commissioner or his representative may enter upon public or private premises at reasonable times for the purpose of enforcing said sections, and may investigate complaints of injury or accidents resulting from use of restricted use pesticides.

Cite as Miss. Code § 69-23-125

Source: Laws, 1975, ch. 318, § 13; Laws, 2005, ch. 533, §32, eff. 7/1/2005.

§ 69-23-127. Injunctive relief.

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§ 69-23-127. Injunctive relief

The commissioner may obtain an injunction to enjoin the violation of Sections 69-23-101 through 69-23-135 or any regulations issued under those sections in the chancery court of the county in which the violation occurs.

Cite as Miss. Code § 69-23-127

Source: Laws, 1975, ch. 318, § 14; Laws, 2005, ch. 533, §33, eff. 7/1/2005.

§ 69-23-129. Repealed.

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§ 69-23-129. Repealed

Cite as Miss. Code § 69-23-129

History. Repealed by Laws of 1997, ch. 449, §5, eff. 3/25/1997.

Prior History: (Laws, 1975, ch. 318, § 15.)

§ 69-23-131. When training, examination and certification of applicators may begin.

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§ 69-23-131. When training, examination and certification of applicators may begin

- (1) Regulations may be promulgated by the commissioner after passage.
- (2) Training, examination and certification of applicators may begin after passage in order for applicants to be certified by October 21, 1976.
- (3) The requirement that applicators be certified in order to use or supervise the use of restricted use pesticides shall not be effective until October 21, 1976, or at a later date if permitted by EPA.

Cite as Miss. Code § 69-23-131

Source: Laws, 1975, ch. 318, § 16, eff. 10/1/1975.

§ 69-23-133. Advisory committee.

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§ 69-23-133. Advisory committee

The commissioner shall appoint an advisory committee, and by regulation establish the composition of the committee to include representatives from the agriculture, agribusiness and related industries.

The purpose of the committee shall be to advise and assist the commissioner in developing regulations and plans for implementing the provisions of Sections 69-23-101 through 69-23-135 and a pesticide regulatory program to meet the requirements of FIFRA.

Cite as Miss. Code § 69-23-133

§ 69-23-135. Penalties.

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§ 69-23-135. Penalties

- (1)
 - (a) Any person violating any of the provisions of this chapter or the rules and regulations issued under this chapter at a minimum is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than One Thousand Dollars (\$ 1,000.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment at the discretion of the court having jurisdiction.
 - (b) Each violation and each day's violation for continuing acts shall constitute a separate offense.
 - (c) Any person violating any of the provisions of this chapter or the rules and regulations issued under this chapter in such a way that causes harm or poses a threat to man, animals or the environment is guilty of a felony and, upon conviction, shall be punished by a fine of not more than Twenty-Five Thousand Dollars (\$ 25,000.00) or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years or by both such fine and imprisonment for each violation.
- (2) Each violation of this chapter or the rules and regulations issued under this chapter shall subject the violator to administrative action as provided for in Sections 69-25-51 through 69-25-63.

Cite as Miss. Code § 69-23-135