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## **An Act To Continue the Protection of Marine Waters and Organisms from the Risks Posed by the Applications of Pesticides**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the spraying of pesticides to curtail browntail moth populations begins in the spring; and

**Whereas,** action is needed to reduce the risk to marine organisms from pesticides used to curtail browntail moths; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §1444, sub-§5** is enacted to read:

**5. Limits on pesticide applications.** Pesticide applications near coastal waters in Cumberland, Lincoln, Sagadahoc and York counties to control browntail moths must be in compliance with section 1445-A.

This subsection is repealed March 31, 2008.

**Sec. 2. 22 MRSA §1445-A** is enacted to read:

### **§ 1445-A. Restrictions on application of pesticides to control browntail moths in coastal areas**

This section applies to the application of pesticides to control browntail moths in coastal areas. For the purposes of this section, "coastal areas" means land in Cumberland, Lincoln, Sagadahoc and York counties abutting coastal waters as defined in Title 12, section 6001, subsection 6, except that coastal areas extend inland up rivers and streams only as far as the first bridge.

**1. Prohibition on application of pesticides.** A person may not apply a pesticide to control browntail moths on shade or ornamental trees within 50 feet of the mean high water mark in coastal areas.

**2. Restrictions on applications between 50 and 250 feet of mean high water mark.** A person may not apply a pesticide to control browntail moths on shade or ornamental trees in coastal areas located between 50 and 250 feet from the mean high water mark except in accordance with this subsection.

A. Only products with the active ingredients diflubenzuron, permethrin, tau-fluvalinate or cyfluthrin may be applied.

B. Applications may be performed only with a hydraulic hand-held spray gun or air-assisted sprayers.

C. Applications may be performed only in a manner in which the applicator directs the spray away from marine waters.

D. Applications may not be made when the wind is blowing toward marine waters.

E. Applications may be performed only when the wind is equal to or greater than 2 miles per hour and blowing away from marine waters.

**3. Notification and submission of records.** A commercial applicator, as defined in section 1471-C, subsection 5, shall notify the Board of Pesticides Control within the Department of Agriculture, Food and Rural Resources between 48 and 18 hours in advance of using air-assisted sprayers to apply pesticides to control browntail moths in coastal areas. Upon request of the board, a commercial applicator shall submit spray records for such applications.

**4. Exemption.** The prohibitions and restrictions in this section do not apply to biological pesticides, to the injection of pesticides directly into the soil or into shade and ornamental trees or to the application of pesticides by licensed commercial pesticide applicators using nonpowered equipment.

**5. Repeal.** This section is repealed March 31, 2008.

**Sec. 3. Board of Pesticides Control; monitoring project; report.** The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control shall monitor applications of pesticides using air-assisted sprayers as allowed under the Maine Revised Statutes, Title 22, section 1445-A, subsection 2 to control browntail moths in coastal areas. The board, working cooperatively with the Department of Marine Resources, may sample marine waters and sediments in coastal areas where pesticides are applied to control browntail moths. The board shall report its findings and recommendations from monitoring applications with air-assisted spraying to the Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Marine Resources by January 2, 2008.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 12, 2007.