

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 3.2-3931 of the Code of Virginia, relating to pesticide control; agencies or persons exempt or partially exempt.

[S 163]

Approved

Be it enacted by the General Assembly of Virginia:
1. That § 3.2-3931 of the Code of Virginia is amended and reenacted as follows:
§ 3.2-3931. Agencies or persons exempt or partially exempt.

A. All state agencies, municipal corporations, or other governmental agencies shall be exempt from any certification fees prescribed by this article, but remain subject to the provisions of this article and regulations adopted hereunder concerning the application of pesticides.

B. Individuals, volunteers, employees, or representatives of such governmental agencies shall be certified as commercial applicators or registered technicians for the use of pesticides covered by the applicant's certification. The certification shall be valid only when applying or supervising application of pesticides used by such governmental agencies.

C. The following persons shall be exempt from the provisions of this article: (i) persons conducting laboratory research involving restricted use pesticides; (ii) doctors of medicine or doctors of veterinary medicine applying pesticides as drugs or medication, or to control pests in corpses during the normal course of their practice; (iii) providers of janitorial, cleaning, or sanitizing services if the providers use no pesticides other than nonrestricted use sanitizers, disinfectants, and germicides; (iv) persons who apply paints containing pesticides, provided that the pesticides in the paints are not restricted use pesticides; (v) classes of persons specified by regulation who can use or supervise the use of pesticides with minimal risk to the public health and safety by virtue of their experience and knowledge regarding the safe use of pesticides; and (vi) classes of persons specified by regulation whose use or supervision of the use of pesticides can be accomplished with minimal risk to the public health and safety by virtue of the nature of the pesticides used or method of application of the pesticides.

D. A painter who applies restricted-use marine antifoulant paint only under the direct, on-site supervision of a commercial applicator is not required to be a commercial applicator or a registered technician, provided that one commercial applicator may not provide on-site supervision for more than eight paint applicators.

E. Neither the provisions of this chapter nor regulations adopted hereunder shall require the certification of any person who uses or supervises the use of any pesticide that is not a restricted use pesticide only on property owned or leased by his employer as part of his job duties. This exemption shall not apply to any person who: (i) uses or supervises the use of any pesticide on any area open to the general public at educational institutions, health care facilities, day-care facilities, or convalescent facilities; (ii) uses or supervises the use of any pesticide within any area where open food is stored, processed, or sold; (iii) uses or supervises the use of any pesticide on any recreational land over five acres in size; and (iv) is otherwise specifically required by this article to be certified as a commercial applicator.

F. Neither the provisions of this chapter nor the regulations adopted hereunder shall require the certification of any unpaid volunteer who uses any nonrestricted herbicide with the express authorization of a state agency or a local political subdivision for the sole purpose of controlling invasive plants or noxious weeds, as that term is defined in § 3.2-800, on properties owned by such state agency or local political subdivision. Such unpaid volunteer shall use such herbicide under the direct supervision of a certified commercial applicator, and such state agency or local political subdivision shall provide instruction by a certified commercial applicator to such unpaid volunteer prior to application on (i) the risks associated with the herbicide utilized, (ii) the proper use of equipment used to apply the herbicide, (iii) the proper use of personal protective equipment, (iv) other information to prevent an unreasonable adverse effect on the environment, and (v) any other information relevant to the specific herbicide utilized.