
The General Assembly of North Carolina enacts:

Section 1. G.S. Chapter 143 is hereby amended by adding thereto a new article, to be numbered Article 52, and to read as follows:

"Article 52.
"Pesticides Board

"Part 1. Pesticide Control Program: Organization and Functions

"§ 143-434. Short Title — This Article may be cited as the North Carolina Pesticide Law of 1971.

"§ 143-435. Preamble. — (a) The Legislative Research Commission was directed by House Resolution 1392 of the 1969 General Assembly 'to study agricultural and other pesticides', and to report its findings and recommendations to the 1971 General Assembly. Pursuant to said Resolution a report was prepared and adopted by the Legislative Research Commission in 1970 concerning pesticides. In this report the Legislative Research Commission made the following findings concerning the use and effects of pesticides and the need for legislation concerning control of pesticide use, of which the General Assembly hereby takes cognizance:

(1) The use of chemical pesticides has developed since the 1940's into a major, new billion-dollar industry. Pesticides have bettered the lot of mankind in many ways and especially have assisted the farmer by their contribution to a stable and inexpensive supply of high quality food, fiber and forest products. The control of insects, fungi and other pests is essential to the public health and welfare and specifically to the prevention of disease, to the production and preservation of food, fiber, and forests and to the protection of other aspects of modern civilization.

(2) The use of pesticides for these important purposes is currently a matter of serious public concern and their use in some instances presents risks to man and the environment which must be weighed against the benefits of those uses in the over-all public interest. Evidence is accumulating that extensive use of persistent pesticides poses hazards to health and the environment. Environmental problems resulting from the use, over-use and misapplication of some chemicals, and the disposal of unused chemicals and containers, have grown to the point where contamination of the environment is approaching significant proportions. There is concern among scientists and public health personnel about the long-term chronic effects of pesticide pollution on human health. Contamination by DDT has been shown to be global in extent. Moreover, recent experience in North Carolina and elsewhere has shown that the more toxic but less persistent pesticides cannot
safely be substituted for the persistent 'hard' pesticides without stringent safeguards.

(3) More extensive observation, study and monitoring of the effectiveness and the use of pesticides and of undesirable side effects on man and on the environment and of their relative importance for the over-all public health and welfare are desirable in the public interest.

(4) Continued and strengthened control of the quality of pesticides and the control of labeling claims, direction for use and warnings are necessary for the protection of the purchasing public, including the household consumer, the farmer and other users.

(5) No existing legislation in North Carolina effectively limits or controls the use of pesticides. Misuse and misapplication of pesticides, while effectively controlled by law with respect to structural pest control operators, is not adequately controlled with respect to some other major groups of pesticide applicators. Careless disposal of unused pesticides and contaminated containers is not controlled by law, and no North Carolina legislation requires that pesticide dealers, who are the principal source of advice for many pesticide users, be qualified to give advice or be held responsible for their advice. These gaps in legal control of pesticides are important and should be remedied.

(b) The purpose of this act is to regulate in the public interest the use, application, sale, disposal and registration of insecticides, fungicides, herbicides, defoliants, desiccants, plant growth regulators, nematicides, rodenticides, and any other pesticides designated by the North Carolina Pesticide Board. New pesticides are continually being discovered or synthesized which are valuable for the control of insects, fungi, weeds, nematodes, rodents, and for use as defoliants, desiccants, plant regulators and related purposes. However, such pesticides may be ineffective or may seriously injure health, property, or wildlife if not properly used. Pesticides may injure man or animals, either by direct poisoning or by gradual accumulation of poisons in the tissues. Crops or other plants may also be injured by their improper use. The drifting or washing of pesticides into streams or lakes can cause appreciable danger to aquatic life. A pesticide applied for the purpose of killing pests in a crop, which is not itself injured by the pesticide, may drift and injure other crops or non-target organisms with which it comes in contact. In furtherance of the findings and recommendations of the Legislative Research Commission, it is hereby declared to be the policy of the State of North Carolina that for the protection of the health, safety, and welfare of the people of this State, and for the promotion of a more secure, healthy and safe environment for all the people of the State, the future sale, use and application of pesticides shall be regulated, supervised and controlled by the State in the manner herein provided.

§ 143-436. North Carolina Pesticide Board: creation and organization. — (a) There is hereby established the North Carolina Pesticide Board which, together with the Commissioner of Agriculture, shall be responsible for carrying out the provisions of this Article.

(b) The Pesticide Board shall consist of seven members, to be appointed by the Governor, as follows:

1. One member each representing the North Carolina Department of Agriculture, the North Carolina Department of Health, and a State conservation agency. The persons so selected may be either members of a policy board or departmental officials or employees.

2. A representative of the agricultural chemical industry.

3. A person directly engaged in agricultural production.
(4) Two at-large members, from fields of endeavor other than those enumerated in paragraphs (2) and (3) of this subsection, one of whom shall be a nongovernmental conservationist.

(c) The members of the Pesticide Board shall serve staggered four-year terms. Of the persons originally appointed, the members representing State agencies shall serve two-year terms, and the four at-large members shall serve four-year terms. All members shall hold their offices until their successors are appointed and qualified. Any vacancy occurring in the membership of the Board prior to the expiration of the term shall be filled by appointment by the Governor for the remainder of the unexpired term. The Governor may at any time remove any member from the Board for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. Each appointment to fill a vacancy in the membership of the Board shall be of a person having the same credentials as his predecessor.

(d) The Board shall select its chairman from its own membership, to serve for a term of two years. The chairman shall have a full vote. Any vacancy occurring in the chairmanship shall be filled by the Board for the remainder of the term. The Board may select such other officers as it deems necessary.

(e) Any action of the Board shall require at least four concurring votes.

(f) The members of the Board who are not officers or employees of the State shall receive for their services the per diem and compensation prescribed in G.S. 138-5.

§ 143-437. Pesticide Board: functions. — The Pesticide Board shall be the governing board for the programs of pesticide management and control set forth in this Article. The Pesticide Board shall have the following powers and duties under this Article:

1. To adopt rules and regulations and make policies for the programs set forth in this Article.

2. To carry out a program of planning and of investigation into long-range needs and problems concerning pesticides.

3. To collect, analyze and disseminate information necessary for the effective operation of the programs set forth in this Article.

4. To provide professional advice to public and private agencies and citizens of the State on matters relating to pesticides, in cooperation with other State agencies, with professional groups, and with North Carolina State University and other educational institutions.

5. To accept gifts, devises and bequests, and with the approval of the Governor to apply for and accept grants from the Federal Government and its agencies and from any foundation, corporation, association or individual, and may comply with the terms, conditions and limitations of the grant, in order to accomplish any of the purposes of the Board, such grant funds to be expended pursuant to the Executive Budget Act.

6. To inform and advise the Governor on matters involving pesticides, and to prepare and recommend to the Governor and the General Assembly any legislation which may be deemed proper for the management and control of pesticides in North Carolina.

7. To make annual reports to the Governor and to make such other investigations and reports as may be requested by the Governor or the General Assembly.

§ 143-438. Commissioner of Agriculture to administer and enforce Article. — The Commissioner of Agriculture shall have the following powers and duties under this Article:

1. To administer and enforce the provisions of this Article.

2. To attend all meetings of the Pesticide Board, but without power to vote (unless he be designated as the ex officio member of the Board from the Department of Agriculture).
(3) To keep an accurate and complete record of all Board meetings and
hearings, and to have legal custody of all books, papers, documents and
other records of the Board.

(4) To assign and reassign the administrative and enforcement duties and
functions assigned to him in this Article to one or more of the divisions and
other units within the Department of Agriculture.

(5) To direct the work of the personnel employed by the Board and of the
personnel of the Department of Agriculture who have responsibilities
concerning the programs set forth in this Article.

(6) To delegate to any division head or other officer or employee of the
Department of Agriculture any of the powers and duties given to the
Department by statute or by the rules, regulations and procedures established
pursuant to this Article.

(7) To perform such other duties as the Board may from time to time direct.

"§ 143-439. Pesticide Advisory Committee: creation and functions. — (a) There is hereby
authorized the establishment of the Pesticide Advisory Committee, which shall assist the Board
and the Commissioner in an advisory capacity on matters which may be submitted to it by the
Board or the Commissioner, including technical questions and the development of rules and
regulations.

(b) The Pesticide Advisory Committee shall consist of fifteen members to be appointed
by the Board, as follows:

Three practicing farmers
One conservationist (at large)
One ecologist (at large)
One representative of the pesticide industry
One representative of agri-business (at large)
One local health director
Three members of the North Carolina State University School of Agriculture and Life
Sciences, at least one of which shall be from the area of wildlife and/or biology
One member each representing the North Carolina Department of Agriculture, the North
Carolina Department of Health and a State conservation agency
One representative of a public utility or railroad company which uses pesticides, or of the
State Highway Commission.

(c) Members of the Pesticide Advisory Committee shall serve at the pleasure of the
Board. The members who are not officers or employees of the State shall receive regular State
subsistence and travel expenses.

"Part 2. Regulation of the Use of Pesticides

"§ 143-440. 'Restricted-use pesticides' regulated. — (a) The Board may, by regulation after
a public hearing, adopt and from time to time revise a list of restricted use pesticides for the
State or for designated areas within the State. The Board may designate any pesticide or device
as a 'restricted-use pesticide' upon the grounds that, in the judgment of the Board, (either
because of its persistence, its toxicity, or otherwise) it is so hazardous or injurious to persons,
pollinating insects, animals, crops, wildlife, lands, or the environment, other than the pests it is
intended to prevent, destroy, control, or mitigate that additional restrictions on its sale, purpose,
use or possession are required.

(b) The Board may include in any such restricted-use regulation the time and conditions
of sale, distribution, or use of such restricted-use pesticides; may prohibit the use of any
restricted-use pesticide for designated purposes or at designated places or times; may require
the purchaser or user to certify that restricted-use pesticides will be used only as labeled or as
further restricted by regulations; and may, if it deems it necessary to carry out the provisions of
this Part, require that any or all restricted-use pesticides shall be purchased, possessed, or used
only under permit of the Board and under its direct supervision in certain areas and/or under certain conditions or in certain quantities or concentrations except that any person licensed to sell such pesticides may purchase and possess such pesticides without a permit. The Board may require all persons issued such permits to maintain records as to the use of the restricted-use pesticides. The Board may authorize the use of restricted-use pesticides by persons licensed under the North Carolina Structural Pest Control Act without a permit.

§ 143-441. Handling, storage and disposal of pesticides. — (a) The Board may adopt regulations:

(1) Concerning the handling, transport, storage (which may include security precautions), display or distribution of pesticides, and concerning the disposal of pesticides and pesticide containers.

(2) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, or misuse.

(b) No person shall handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with pesticides, or in any manner contrary to the regulations of the Board.

(c) No person shall dispose of, discard, or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife, or to pollute any water supply or waterway, or in any manner contrary to the regulations of the Board.

§ 143-442. Registration. — (a) Every pesticide prior to being distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the office of the Board, and such registration shall be renewed annually. The applicant for registration shall file with the Board a statement including:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;

(2) The name of the pesticide;

(3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it including directions for use; and

(4) If requested by the Board a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(b) The applicant shall pay an annual registration fee of $25.00 for each brand or grade of pesticide registered. An additional $25.00 delinquent registration penalty shall be assessed against the registrant for each brand or grade of pesticide which is marketed in North Carolina prior to registration as required by this Article.

(c) The Board, when it deems necessary in the administration of this Article, may require the submission of the complete formula of any pesticide.

(d) If it appears to the Board that the composition of an article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of G.S. 143-443 the Board shall register the article. If it does not appear to the Board that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this Part, it shall not register the article and in turn shall notify the applicant of the manner in which the article, labeling, or other material required to be submitted fail to comply. The Board, in accordance with the procedures specified herein, may suspend or cancel the
registration of a pesticide whenever it does not appear that the article or its labeling complies with the provisions of this Part. Whenever an application for registration is refused or the Board proposes to suspend or cancel a registration, notice of such action shall be given to the applicant or registrant who shall have the right within ten days of receipt of such notice to request a hearing on the action or proposed action of the Board, as provided in G.S. 143-464.

(e) The Board is authorized and empowered to refuse to register, or to cancel the registration of any or all brands and grades of pesticides as herein provided, upon satisfactory proof that the registrant or applicant has been guilty of fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this Part, or any rules and regulations promulgated thereunder: Provided, that no registration shall be revoked or refused until the registrant or applicant shall have been given the opportunity for a hearing by the Board, as provided in G.S. 143-464.

(f) Notwithstanding any other provisions of this Part, registration is not required in the case of a pesticide shipped from one plant within this State to another plant within this State operated by the same person.

§ 143-443. Miscellaneous prohibited acts. — (a) It shall be unlawful for any person to distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any of the following:

(1) Any pesticide which has not been registered pursuant to the provisions of G.S. 143-442, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with the registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: except that, in the discretion of the Board, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(2) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing: (i) The name and address of the manufacturer, registrant, or person for whom manufactured; (ii) The name, brand, or trademark under which said article is sold; and (iii) The net weight or measure of the content subject, however, to such reasonable variations as the Board may permit.

(3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in G.S. 143-444, unless the label shall bear, in addition to any other matter required by this Part: (i) The skull and crossbones; (ii) The word 'poison' prominently, in red, on a background of distinctly contrasting color; and (iii) A statement of an antidote for the pesticide.

(4) The pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Part, or any other white or lightly colored pesticide which the Board, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored; unless it has been so colored or
(5) Any pesticide which is adulterated or misbranded, (or any device which is misbranded).
(6) Any pesticide in containers violating regulations adopted pursuant to G.S. 143-441. Pesticides found in containers which are unsafe due to damage or defective construction may be seized and impounded.

(b) It shall be unlawful:
(1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Part or regulations promulgated hereunder, or to add any substance to, or take any substance from a pesticide in a manner that may defeat the purpose of this Part;
(2) For any person to use for his own advantage or to reveal, other than to the Board or proper officials or employees of the State or federal government or to the courts of this State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of G.S. 143-442.

§ 143-444. Determinations. — The Board is authorized:
(1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
(2) To determine whether pesticides are highly toxic to man; and
(3) To determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of G.S. 143-443(a)(4).

§ 143-445. Exemptions. — (a) The penalties provided for violations of G.S. 143-443(a) shall not apply to:
(1) Any carrier while lawfully engaged in transporting pesticides within this State, if such carrier shall, upon request, permit the Board or its designated agent to copy all records showing the transactions in and movement of the articles;
(2) Public officials of this State or local subdivisions thereof and the federal government engaged in the performance of their official duties;
(3) The manufacturer or shipper of a pesticide for experimental use only, (i) By or under the supervision of an agency of this State or of the federal government authorized by law to conduct research in the field of pesticides, or (ii) By others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked Tor experimental use only - Not to be sold', together with the manufacturer's name and address; (except that if a written permit has been obtained from the Board, pesticides may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit).

(b) No article shall be deemed in violation of this Part when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this Part shall apply.

§ 143-446. Samples; submissions. — (a) The Board, or its agent, is authorized and directed to sample, test, inspect and make analyses of pesticides sold or offered for sale or distributed within this State, at time and place and to such an extent as it may deem necessary to determine whether such pesticides are in compliance with the provisions of this chapter. The Board is
authorized to adopt regulations concerning the collection and examination of samples (or devices), and to adopt regulations establishing tolerances providing for reasonable deviations from the guaranteed analysis.

(b) The official analysis shall be made from the official sample. A sealed and identified sample, herein called 'official check sample' shall be kept until the analysis is completed on the official sample, except that the registrant may obtain upon request a portion of said official sample. If the official analysis conforms with the provisions of this Part, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this Part, then the official check sample shall be retained for a period of 90 days from the date of the certificate of analysis of the official sample.

(c) The Board, of its own motion or upon complaint, may cause an examination to be made for the purpose of determining whether any pesticide complies with the requirements of this Part. If it shall appear from such examination that a pesticide fails to comply with the provisions of this Part, the Board may cause notice to be given to the offending person in the manner provided in G.S. 143-464, and the proceedings thereupon shall be as provided in such section; provided that pesticides may be seized and confiscated as provided in G.S. 143-447.

(d) The Board shall, by publication in such manner as it may prescribe, give notice of all judgments entered in actions instituted under the authority of this Article.

§ 143-447. Emergency suspensions; seizures. — (a) Notwithstanding any other provision of this Article, the Board may, when it finds that such action is necessary to prevent an imminent hazard to the public, or any other nontarget organism or segment of the environment, by order, suspend the registration of a pesticide immediately. In such case, it shall give the registrant prompt notice of such action and afford the registrant the opportunity for an expedited hearing. Final orders of the Board under this Part shall be subject to review as provided for in G.S. 143-464. The Such review shall be instituted within 30 days after receipt by the applicant for registration or registrant of the Board's order. In no event shall registration of a pesticide be construed as a defense to any charge of an offense prohibited under this Article.

(b) It shall be the duty of the Board to issue and enforce a written or printed 'stop sale, stop use, or removal' order to the owner or custodian of any lot of pesticide and for the owner or custodian to hold said lot at a designated place when the Board finds said pesticide is being offered or exposed for sale in violation of any of the provisions of this Article until the law has been complied with and said pesticide is released in writing by the Board or said violation has been otherwise legally disposed of by written authority. The Board shall release the pesticide so withdrawn when the requirements of the provisions of this Article have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal. The registrant of a pesticide found deficient in active ingredients shall be subject to a penalty for the deficiency. The deficiency penalty shall be three times the percentage deficiency times the retail value as established by the consignee at the time of sampling, but not less than $25.00.

(c) Any pesticide (or device) that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce between points within this State through any point outside this State shall be liable to be proceeded against in superior court in any county of the State where it may be found and seized for confiscation by process or libel for condemnation:

(1) In the case of a pesticide, (i) If it is adulterated or misbranded, (ii) If it has not been registered under the provisions of G.S. 143-442, (iii) If it fails to bear on its label the information required by this Part, 1207 (iv) If it is a white or lightly colored pesticide and is not colored as required under this Part.

(2) In the case of a device, if it is misbranded.

(d) If the article is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct and the proceeds, if such article is sold, less legal
costs, shall be paid to the State Treasurer; provided that the article shall not be sold contrary to
the provisions of this Part; and provided further that upon payment of costs and execution and
delivery of a good and sufficient bond conditioned that the article shall not be disposed of
unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling
or reprocessing or disposal, as the case may be.

(e) When a decree of condemnation is entered against the article, court costs and fees
and storage and other proper expenses shall be awarded against the person, if any, intervening
as claimant of the article.

"Part 3. Pesticide Dealers and Manufacturers"

§ 143-448. Licensing of pesticide dealers; fees. — (a) No person shall act in the capacity of
a pesticide dealer, or shall engage or offer to engage in the business of, advertise as, or assume
to act as a pesticide dealer unless he is licensed annually as provided in this Part. A separate
license and fee shall be obtained for each location or outlet from which restricted use pesticides
are distributed, sold, held for sale, or offered for sale.

(b) Applications for a pesticide dealer license shall be in the form and shall contain the
information prescribed by the Board. Each application shall be accompanied by a fee of $25.00.
All licenses issued under this Part shall expire on December 31 of the year for which they are
issued.

(c) The license for a pesticide dealer may be renewed annually upon application to the
Board, accompanied by a fee of $25.00 for each license, on or before the first day of January of
the calendar year for which the license is issued.

(d) If an application for renewal of a pesticide dealer’s license is not filed on or before
January 1 of any year, a penalty of 25% of the renewal fee shall be assessed and added to the
fee, and shall be paid by the applicant before the renewal license is issued, but such penalty
shall not apply if the applicant furnishes an affidavit that he has not distributed, sold, held for
sale or offered for sale any restricted use pesticide subsequent to the expiration of his prior
license.

(e) Every licensed pesticide dealer who changes his address or place of business shall
immediately notify the Board.

(f) The Board shall issue to each applicant that satisfies the requirements of this Part a
license which entitles the applicant to conduct the business described in the application for the
calendar year for which the license is issued, unless the license is sooner revoked or suspended.

§ 143-449. Qualifications for pesticide dealer license; examinations. — (a) An applicant for a
license must present evidence satisfactory to the Board concerning his qualifications for such
license. The basic qualifications shall be:

(1) Two years as an employee or owner-operator in the field of pesticide sales. 
    One or more years training in pesticides and control of pests under university
    or college supervision may be substituted for practical experience. Each year
    of such training may be substituted for one year of practical experience; or

(2) A degree from a recognized college or university with training in
    entomology, plant pathology, weed science or related subjects including
    sufficient practical experience in pesticide use under proper supervision.

(b) Each applicant shall satisfy the Board as to his responsibility in carrying on the
business of a pesticide dealer. Each applicant for an original license must demonstrate upon
written, or written and oral, examination to be prescribed by the Board his knowledge of
pesticides, their usefulness and their hazards; his competence as a pesticide dealer; and his
knowledge of the laws and regulations governing the use and sale of pesticides.

(c) The Board shall by regulation:

(1) Designate what persons or class of persons shall be required to pass the
    examination in the case of a pesticide dealer operating more than one
location, and in the case of an applicant that is a corporation, governmental unit or agency, or other organized group;

(2) Provide for renewal license examinations at intervals not more frequent than four years.

§ 143-450. Employees of pesticide dealers; dealer's responsibility. — (a) Every licensed pesticide dealer shall submit to the Board with each application for an original or renewal license, and at such other times as the Board may prescribe, the names of all persons employed by him who sell or recommend 'restricted-use pesticides.'

(b) Each pesticide dealer shall be responsible for the actions of every person who acts as his employee or agent in the solicitation or sale of pesticides, and in all claims and recommendations for use or application of pesticides.

§ 143-451. Denial, suspension, revocation of license. — (a) The Board may suspend for not longer than ten days, pending inquiry, and, after opportunity for a hearing, the Board may deny, suspend, revoke, or modify the provision of any license issued under this Part, if it finds that the applicant or licensee or his employee has committed any of the following acts, each of which is declared to be a violation of this Part:

1. Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;
2. Made a pesticide recommendation not in accordance with the label registered pursuant to this Article;
3. Violated any provision of this Article or of any rule or regulation adopted by the Board or of any lawful order of the Board;
4. Failed to pay the original or renewal license fee when due, and continued to sell restricted use pesticides without paying the license fee, or sold restricted use pesticides without a license;
5. Was guilty of gross negligence, incompetency or misconduct in acting as a pesticide dealer;
6. Refused or neglected to keep and maintain the records required by this Article, or to make reports when and as required, or refusing to make these records available for audit or inspection;
7. Made false or fraudulent records, invoices, or reports;
8. Used fraud or misrepresentation in making an application for a license or renewal of a license, or in selling or offering to sell restricted use pesticides;
9. Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;
10. Aided or abetted a licensed or an unlicensed person to evade the provisions of this Article, combined or conspired with such a licensed or unlicensed person to evade the provisions of this Article, or allowed one's license to be used by an unlicensed person;
11. Impersonated any state, county, or city inspector or official;
12. Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted regulations.

(b) Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until such time has elapsed from the date of the order revoking said license as established by the Board (not to exceed two years), or if an appeal is taken from said order or revocation, not to exceed two years from the date of the order or final judgment sustaining said revocation.

§ 143-452. Licensing of pesticide applicators; fees. — (a) No person shall engage in the business of pesticide applicator within this State at any time unless he is licensed annually as a pesticide applicator by the Board.
Applications for a pesticide applicator license shall be in the form and shall contain the information prescribed by the Board. Each application shall be accompanied by a fee of $25.00 for each pesticide applicator's license and in addition an annual inspection fee of $10.00 for each aircraft to be licensed and $5.00 for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection, making it necessary for a second inspection to be made, the Board shall require an added inspection fee in the same amount as the original fee. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations. All licensed equipment shall be identified by a license plate or decal furnished by the Board, at no cost to the licensee, which plate or decal shall be affixed in a location and manner upon such equipment as prescribed by the Board. No applicator inspection or license fee, original or renewal, shall be charged to State agencies or local governments or their employees.

(c) If the application for renewal of any license provided for in this Part is not filed prior to January 1 in any year, a penalty fee of 25% shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued.

(d) The Board shall classify licenses to be issued under this Part. Separate classifications shall be specified (i) for ground and aerial methods used by any licensee to apply pesticides, and (ii) covering State and local governmental units engaged in the control of rodents and insects of public health significance. The Board may include such further classifications and subclassifications as the Board considers appropriate. For aerial applications, a license shall be required both for the contractor and the pilot. Each classification shall be subject to separate testing procedures and requirements.

(e) Every licensed pesticide applicator who changes his address shall immediately notify the Board.

(f) If the Board finds the applicant qualified to apply pesticides in the classifications he has applied for and, if the applicant files the bond or insurance required under G.S. 143-467, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency to operate the equipment described in the application, the Board shall issue a pesticide applicator's license limited to the classifications for which he is qualified. Every such license shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the Board for cause, or unless such financial security required under G.S. 143-467 is dated to expire at an earlier date, in which case said license shall be dated to expire upon expiration date of said financial security. The license may restrict the applicant to the use of a certain type or types of equipment or pesticides or to certain areas if the Board finds that the applicant is qualified to use only such type or types. If a license is not issued as applied for, the Board shall inform the applicant in writing of the reasons therefor.

(g) A pesticide applicator's license shall not be transferable. When there is a transfer of ownership, management, or operation of a business of a licensee hereunder, the new owner, manager, or operator (as the case may be) whether it be an individual, firm, partnership, corporation, or other entity, shall have 90 days from such sale or transfer, or until the next meeting of the Board following the expiration of said 90-day period, to have a qualified licensee to operate said business.

(h) Any licensee whose license is lost or destroyed may secure a duplicate license for a fee of $2.00.

§ 143-453. Qualifications for pesticide applicator's license; examinations. — (a) An applicant for a license must present satisfactory evidence to the Board concerning his qualifications for such license. The basic qualifications shall be:

(1) Two years as an employee or owner-operator in the field of pesticide application. One or more years training in specialized pesticide application
and control of pests under university or college supervision may be substituted for practical experience. Each year of such training may be substituted for one year of practical experience; or

(2) A degree from a recognized college or university with training in entomology, sanitary or public health engineering, plant pathology, weed science or related subjects, including sufficient practical experience in pesticide application under proper supervision; or

(3) As to a local government employee dispensing only pesticides designed to destroy or repel insects of public health significance or to control rodents, sufficient experience to satisfy the Board of his ability to properly dispense such pesticides.

(b) Each applicant shall satisfy the Board as to his knowledge of the laws and regulations governing the use and application of pesticides in the classifications he has applied for (manually or with various equipment that he may have applied for a license to operate), and as to his responsibility in carrying on the business of a pesticide applicator. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of pesticides, their usefulness and their hazards; his competence as a pesticide applicator; and his knowledge of the laws and regulations governing the use and application of pesticides in the classification for which he has applied.

(c) The Board shall by regulation:

(1) Designate what persons or class of persons shall be required to pass the examination in the case of an applicant that is a corporation or governmental unit or agency;

(2) Provide for license renewal examinations at intervals not more frequent than four years.

§ 143-454. Solicitors, salesmen and operators; applicator's responsibility. — (a) Every licensed pesticide applicator shall submit to the Board with each application for an original or renewal license, and at such other times as the Board may prescribe, the names of all solicitors, salesmen and operators employed by him.

(b) Each licensed pesticide applicator shall be responsible for solicitors, salesmen, and operators in his employment to assure that pesticides are used in a manner consistent with the intent of this Article.

§ 143-455. Pest control consultant license. — (a) No person shall perform services as a pest control consultant without first procuring from the Board a license. Applications for a consultant license shall be in the form and shall contain the information prescribed by the Board. The application for a license shall be accompanied by an annual fee of $25.00.

(b) An applicant for a consultant license must present satisfactory evidence to the Board concerning his qualifications for such license. The basic qualifications shall be:

(1) Two years of experience in the field of pesticide consulting, or in such related field or fields as the Board may deem an acceptable equivalent. One or more years training in specialized pesticide consultation or such related fields as the Board may deem an acceptable equivalent, under university or college supervision, may be substituted for practical experience. Each year of such training may be substituted for one year of practical experience; or

(2) A degree from a recognized college or university with training in entomology, sanitary or public health engineering, plant pathology, weed science or related subjects, including sufficient practical experience in pesticide application under proper supervision.

(c) Each applicant shall satisfy the Board as to his responsibility in carrying on the business of a pesticide consultant. Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Board his knowledge of
pesticides, their usefulness and their hazards; his competence as a pesticide consultant; and his knowledge of the laws and regulations governing the use and sale of pesticides.

(d) Pest control consultants shall be subject to the same provisions as pesticide applicators concerning penalties for late applications for license, changes of address, transferability of licenses, periodic re-examination, and examinations for corporate applicants.

§ 143-456. Denial, suspension, revocation of license. — (a) The Board may suspend for not longer than ten days pending inquiry by the Commissioner, and, after opportunity for a hearing, the Board may deny, suspend, revoke, or modify the provisions of any license issued under this Part, if it finds that the applicant or licensee or his registered employee has committed any of the following acts, each of which is declared to be a violation of this Part:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;
(2) Made a pesticide recommendation or application not in accordance with the label registered pursuant to this Article;
(3) Operated faulty or unsafe equipment;
(4) Operated in a faulty, careless, or negligent manner;
(5) Violated any provision of this Article or of any rule or regulation adopted by the Board or any lawful order of the Board;
(6) Refused or neglected to keep and maintain the records required by this Article, or to make reports when and as required;
(7) Made false or fraudulent records, invoices, or reports;
(8) Operated unlicensed equipment;
(9) Used fraud or misrepresentation in making an application for a license or renewal of a license;
(10) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;
(11) Aided or abetted a licensed or an unlicensed person to evade the provisions of this Article, combined or conspired with such a licensed or unlicensed person to evade the provisions of this Article, or allowed one's license to be used by an unlicensed person;
(12) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;
(13) Impersonated any state, county, or city inspector or official;
(14) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted regulations;
(15) Failed to pay the original or renewal license fee when due and continued to operate as an applicator, or applied pesticides without a license.

(b) Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until such time has elapsed from the date of the order revoking said license as established by the Board (not to exceed two years), or if an appeal is taken from said order or revocation, not to exceed two years from the date of the order or final judgment sustaining said revocation.

§ 143-457. Damaged person must file report of loss; contents; time for filing; effect of failure to file. — (a) Any person claiming damages from pesticide application shall have filed with the Board a written statement claiming that he has been damaged, on a form prescribed by the Board within 21 days after the date that damages are apparent, or prior to the time that 25% of a crop damaged shall have been harvested. Such statement shall contain, but shall not be limited thereto, the name of the person responsible for the application of said pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damages are claimed and the date on which it is alleged that the damage occurred. The Board shall prepare a form to be furnished to persons to be used in such cases and such form shall contain such other
requirements as the Board may deem proper. The Board shall, upon receipt of such statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility, for the damages claimed, and furnish copies of such statements as may be requested.

(b) The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file such a report shall not be a violation of this Article.

However, if the person failing to file such a report is the only one injured from such use or application of a pesticide by others, the Board may, when in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or permit issued under this Article until such report is filed. Where damage is alleged to have been done, the claimant shall permit the licensee and his representatives, such as bondsman or insurer, to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that such damage may be examined.

Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee.

"§ 143-458. Rules and regulations concerning methods of application. — (a) The Board shall have authority to issue regulations after notice and hearing as provided by G.S. 143-463 to carry out the provisions and purpose of this Part and in such regulations may prescribe methods to be used in the application of pesticides. Where the Board finds that such regulations are necessary to carry out the provisions of this Part, such regulations may relate to the time, place, manner, and method of application of the pesticides, may restrict or prohibit sale and use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the Board deems necessary to prevent damage or injury by drift or misapplication to:

(1) Plants, including forage plants, on adjacent or nearby land;
(2) Wildlife in the adjoining or nearby areas;
(3) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; or
(4) Other animals, persons or beneficial insects.

In issuing such regulations, the Board shall give consideration to pertinent research findings and recommendations of other agencies of this State or of the federal government.

(b) The Board may by regulation require that notice of a proposed application of a pesticide be given to land owners adjoining the property to be treated or in the immediate vicinity thereof, if it finds that such notice is necessary to carry out the purpose of this Article.

"§ 143-459. Reporting of shipments and volumes of pesticides. — Every person selling pesticides directly to the consumer shall file with the Board, in such manner and with such frequency as the Board may prescribe, reports of purchases, sales and shipments of restricted-use pesticides and other pesticides designated by the Board. Failure to file any report when due shall be cause for suspension or revocation of any license or registration issued under this Article, or for denial of the issuance or renewal of any such license or registration, and shall be a misdemeanor, punishable as provided by G.S. 143-469. The time for reporting may be extended for an additional fifteen days for cause, upon written request to the Board. All reports provided under this Part are provided solely for the purposes of the Board.

"Part 5. General Provisions

"§ 143-460. Definitions. — As used in this Article, unless the context otherwise requires:

(1) The term 'active ingredient' means

a. In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;
b. In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

c. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; d. In the case of a desiccant, an ingredient which will artificially accelerate the drying of a plant tissue.

(2) The term 'adulterated' shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

(3) The term 'antidote' means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(4) 'Board' means the North Carolina Pesticide Board.

(5) 'Commissioner' means the North Carolina Commissioner of Agriculture.

(6) 'Committee' means the Advisory Committee on Pesticides.

(7) The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(8) The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

(9) The term 'device' means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or such other pests as may be designated by the Board, but not including equipment used for the application of pesticides when sold separately therefrom.

(10) 'Engage in business' means any application of pesticide by any person for use upon lands of another, or any sale of pesticide by any person.

(11) 'Equipment' means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(12) The term 'fungi' means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts), for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(13) The term 'fungicide' means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

(14) The term 'herbicide' means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

(15) The term 'inert ingredient' means an ingredient which is not an active ingredient.

(16) The term 'ingredient statement' means

a. A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; and
b. In case the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(17) The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, wasps, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

(18) The term 'insecticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

(19) The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide (or device) or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide (or device).

(20) The term 'labeling' means all labels and other written, printed, or graphic matter:
   a. Upon the pesticide (or device) or any of its containers or wrappers;
   b. Accompanying the pesticide (or device) at any time;
   c. To which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate, non-misleading reference is made to current official publications of the United States Department of Agriculture or Interior, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar Federal institutions or official agencies of this State or other states authorized by law to conduct research in the field of pesticides.

(21) 'Land' means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(22) 'Manufacturer' includes any person engaged in the business of importing, producing, preparing, formulating, mixing, or processing pesticides.

(23) The term 'misbranded' shall apply:
   a. To any pesticide or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
   b. To any pesticide-
      1. If it is an imitation of or is offered for sale under the name of another pesticide;
      2. If its labeling bears any reference to registration under this Article;
      3. If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;
      4. If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;
      5. If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient
statement on the immediate container cannot be clearly read, of
the retail package which is presented or displayed under
customary conditions of purchase except that the Board may
permit the statement to appear prominently on some other
part of the container, if the size or form of the container make
it impractical to comply with the requirements of this
subparagraph;

6. If any word, statement, or other information required by or
under the authority of this Article to appear on the labeling is
not prominently placed thereon with such conspicuousness
(as compared with other words, statements, designs, or
graphic matter in the labeling) and in such terms as to render
it likely to be read and understood by the ordinary individual
under customary conditions of purchase and use; or

7. If in the case of an insecticide, nematicide, fungicide, or
herbicide when led as directed or in accordance with
commonly recognized practice, it shall be injurious to living
man or other vertebrate animals or vegetation except weeds,
to which it is applied, or to the person applying such

8. If the case of a plant regulator, defoliant, or desiccant when
used as directed it shall be injurious to living man or other
vertebrate animals or vegetation to which it is applied, or to
the person applying such pesticides, except that physical or
physiological effects on plants or part of thereof shall not be
deed to be injury, when this is the purpose for which he
plant regulator, defoliant, or desiccant was applied, in
accordance with the label claims and recommendations.

(24) The term 'nematicide' means any substance or mixture of substances
intended for preventing, destroying, repelling, or mitigating nematodes.

(25) The term 'nematode' means invertebrate animals of the phylum
eathelmithes and class Nematoda, that is, unsegmented round worms
with elongated, fusiform, or saclike bodies covered with cuticle, and
inhabiting soil, water, plants or plant parts; may also be called nemas or
eelworms.

(26) A 'person' is any person, including (but not limited to) an individual, firm
partnership, association, company, joint stock association, public or private
institution, municipality or county or local government unit (as defined in
G.S. 143-215.40(b)), state or Federal governmental agency, or private or
public corporation organized under the laws of this State or the United States
or any other state or country.

(27) 'Pest control consultant' means any person, who, for a fee, offers or supplies
technical advice supervision, or aid, or recommends the use of specific
pesticides for the purpose of controlling insects, plant diseases, weeds, and
other pests, but does not include any person regulated by the North Carolina
Structural Pest Control Act (G.S. Chapter 106, Article 4C).

(28) The term 'pesticide' means

a. Any substance or mixture of substances intended for preventing,
destroying repelling, or mitigating any insects, rodents, nematodes,
fungi, weeds, or other forms of plant or animal life or viruses, except
viruses on or in living man or other animals, which the Board shall
declare to be a pest, and
b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(29) 'Pesticide applicator' means any person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands of another. It includes public operators, but does not include:

a. Any person applying pesticides for himself with ground equipment who (i) operates and maintains pesticide applicator equipment primarily for his own use; (ii) is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation; (iii) does not publicly hold himself out as a pesticide applicator; and (iv) operates his pesticide applicator equipment only in the vicinity of his own property and for the accommodation of his neighbors.

b. Any person regulated by the North Carolina Structural Pest Control Law (General Statutes Chapter 106, Article 4C.)

(30) The term 'pesticide dealer' means any person who is engaged in the business of distributing, selling, offering for sale, or holding for sale restricted use pesticides for distribution directly to users. The term pesticide dealer does not include:

a. Persons whose sales of pesticides are limited to pesticides in consumer-sized packages (as defined by the Board) which are labeled and intended for home and garden use only and are not restricted use pesticides, or

b. Practicing veterinarians and physicians who prescribe, dispense, or use pesticides in the performance of their professional services.

(31) 'Pesticide operator' means a person who is employed or directly supervised by a pesticide applicator, and who in turn either

a. Directly supervises activities in the field including recommending controls, handling, mixing, and applying pesticides in the field, and the disposal of waste, excess materials, or containers, or

b. Is the sole employee engaged in such activities.

(32) The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(33) 'Public operator' means any person in charge of any equipment used by public utilities (as defined by General Statutes Chapter 62), state agencies, municipal corporations, or other governmental agencies applying pesticides.

(34) The term 'registrant' means the person registering any pesticide pursuant to the provisions of this Article.

(35) The term 'restricted-use pesticide' means a pesticide which the Board has designated as such pursuant to G.S. 143-440.

(36) The term 'rodenticide' means any substance or mixture of substances intended for preventing, destroying, repelling, attracting, or mitigating rodents or any other vertebrate animal which the Board shall declare to be a pest.

(37) The term 'weed' means any plant or part thereof which grows where not wanted.
§ 143-461. General powers of Board. — In addition to the specific powers prescribed elsewhere in this Article, and for the purpose of carrying out its duties, the Board shall have the power, at any time and from time to time:

(1) To adopt from time to time and to modify and revoke official regulations interpreting and applying the provisions of this Article and rules of procedure establishing and amplifying the procedures to be followed in the administration of this Article; provided, that no such regulations and no rules of procedure shall be effective nor enforceable until published and filed as prescribed by G.S. 143-463. Unless the Board deems there are overriding policy considerations involved, any regulation of the Board, which will in the judgment of the Board result in severe curtailment of the usefulness or value of inventories or equipment in the hands of persons licensed under this Article, should be given a future effective date so as to minimize undue potential economic loss to licensees;

(2) To authorize the Commissioner by proclamation to suspend or implement, in whole or in part, particular regulations of the Board which may be affected by variable conditions. All proclamations must state the hour and date upon which they become effective and must be issued at least forty-eight hours in advance of the effective date and time. All proclamations shall expire on the date of the next succeeding Board meeting following their issuance. The Commissioner must keep a permanent file of the texts of proclamations issued by him, and furnish upon request certified copies of any proclamation for use in evidence in any civil or criminal proceeding in which the text of a proclamation may be in issue. Proclamations need not be filed with the Secretary of State or with any clerk of court. The Commissioner must make every reasonable effort to give actual notice of the terms of any proclamation to the persons who may be affected thereby;

(3) To conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed by this Article;

(4) To conduct public hearings in accordance with the procedures prescribed by this Article;

(5) To delegate such of the powers of the Board as the Board deems necessary(other than its powers to adopt rules and regulations of any kind) to one or more of its members, to the Commissioner, or to any qualified employee of the Board or of the Commissioner; provided, that the provisions of any such delegation of power shall be set forth in the official regulations of the Board. Any person to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Board for decision;

(6) To call upon the Attorney General for such legal advice and assistance as is necessary to the functioning of the Board;

(7) To institute such actions in the superior court in the county in which any defendant resides, or has his or its principal place of business, as the Board may deem necessary for the enforcement of any of the provisions of this Article or of any official actions of the Board, including proceedings to enforce subpoenas or for the punishment of contempt of the Board. Upon violation of any of the provisions of this Article, or of any regulation of the Board adopted under the authority of this Article the Board may, either
before or after the institution of any other proceedings (civil or criminal), institute a civil action in the superior court in the name of the State for injunctive relief to restrain the violation and for such other or further relief in the premises as said court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any other penalty or remedy prescribed by this Article for any violation of same;

(8) To agree upon or enter into any settlements or compromises of any actions and to prosecute any appeals or other proceedings.

§ 143-462. Procedures for revocations and related actions affecting licenses. — In all proceedings, the effect of which would be to revoke, suspend, deny, or withhold renewal of a license issued under Part 3 or Part 4 of this Article, or to deny permission to take an examination for such a license, the provisions of G.S. Chapter 150 (Uniform Revocation of Licenses) shall be applicable.

§ 143-463. Procedures for adoption of certain rules and regulations: publication of rules and regulations. — (a) Prior to the adoption by the Board of rules or regulations authorized by G.S. 143-440 ('Restricted use of pesticides regulated'), G.S. 143-441('Handling, storage and disposal of pesticides'), or G.S. 143-458 ('Rules and regulations concerning methods of application'), the Board shall conduct one or more public hearings with respect to any such proposed action, in accordance with the procedures prescribed by subsection (b) of this section.

(b) The following provisions shall apply to the public hearings required by subsection (a) of this section:

(1) Notice of any such hearing shall be given not less than 20 days before the date of such hearing and shall state the date, time, and place of hearing, the subject of the hearing, and the action which the Board proposes to take. The notice shall either include details of such proposed action, or where such proposed action is too lengthy for publication, as hereinafter provided for, the notice shall specify that copies of such detailed proposed action can be obtained on request from the office of the Board in sufficient quantity to satisfy the requests of all interested persons.

(2) Any such notice shall be published at least once in one newspaper of general circulation in the State, and a copy of such notice shall be mailed to each person on the mailing list required to be kept by the Board pursuant to the provisions of G.S. 143-464.

(3) Any person who desires to be heard at any such public hearing shall give notice thereof in writing to the Board on or before the first date set for the hearing. The Board is authorized to set reasonable time limits for the oral presentation of views by any one person at any such public hearing. The Board shall permit anyone who so desires to file a written argument or other statement with the Board in relation to any proposed action of the Board any time within 30 days following the conclusion of any public hearing or within any such additional time as the Board may allow by notice given as prescribed in this section.

(c) Upon completion of hearings and consideration of submitted evidence and arguments with respect to any proposed action of the Board pursuant to this section, the Board shall adopt its final action with respect thereto and shall publish such final action as part of its official regulations.

(d) The Board is empowered to modify or revoke from time to time any final action previously taken by it pursuant to the subjects referred to in subsection (a); any such modification or revocation, however, to be subject to the procedural requirements of this section.
All official acts of the Board which have or are intended to have general application effect shall be incorporated either in the Board’s official regulations (applying and interpreting this Article), or in its rules of procedure. All such regulations and rules shall upon adoption thereof by the Board be printed (or otherwise duplicated), and a duly certified copy thereof shall immediately be filed with the Secretary of State. One copy of each such action shall at the same time be mailed to all persons then on the mailing list, and additional copies shall at all times be kept at the office of the Board in sufficient numbers to satisfy all reasonable requests therefor. The Board shall codify its regulations and rules and from time to time shall revise and bring up to date such codifications.

§ 143-464. Procedures with respect to registration of pesticides and certain other matters; mailing list; seal; judicial review. — (a) In any proceeding wherein an application for registration of a pesticide is refused or the Board proposes to suspend or cancel a registration, the Board shall give notice with respect to all steps of the proceeding only to each person directly affected by such proceedings who shall be made a party thereto. The Board shall also apprise all persons on its mailing list on the date when the action is taken of all of its official acts (such as the adoption of regulations or rules of procedure) which have, or are intended to have general application and effect. It shall be the duty of the Board to keep such a mailing list on which it shall record the name and address of each person who requests listing thereon, together with the date of receipt of such request. Any person may, by written request to the Board, ask to be permanently recorded on such mailing list.

(b) All notices which are required to be given by the Board or by any party to a proceeding shall be given by regular mail to all persons entitled thereto, including the Board. The certificate of the person designated by the Board to mail such notices that the notices were mailed, giving the mailing date, shall be conclusive in the absence of fraud. Notice by the Board may be given to any person upon whom a summons may be served in accordance with the provisions of law covering civil actions in the superior courts of this State. Any notice shall be sufficient if it reasonably sets forth the action requested or demanded or gives information as to action taken. The Board by its rules of procedure may prescribe other necessary practices and procedures with regard to the form, content and procedure as to any particular notices.

(c) The following provisions, together with any additional provisions not inconsistent herewith which the Board may prescribe, shall be applicable in connection with hearings pursuant to this Article, except where other provisions are applicable in connection with specific types of hearings:

(1) Any hearing held pursuant to G.S. 143-442 whether called at the instance of the Board or of any person, shall be held upon not less than 30 days' written notice given by the Board to any person who is, or is entitled to be, a party to the proceedings with respect to which such hearing is to be held, unless a shorter notice is agreed upon by all such parties.

(2) All hearings shall be before the Board or its authorized agent or agents, and the hearing shall be open to the public. The Board, or its authorized agents, shall have the authority to administer oaths.

(3) A full and complete record of all proceedings at any hearing shall be taken by a reporter appointed by the Board or by some other method approved by the Attorney General. Any party to a proceeding shall be entitled to a copy of such record upon the payment of the reasonable cost thereof as determined by the Board.

(4) The Board shall follow generally the procedures applicable in civil actions in the superior court insofar as practicable, including rules and procedures with regard to the taking and use of depositions, the making and use of stipulations, and the entering into of agreed settlements and consent orders.
(5) Subpoenas or subpoenas duces tecum issued by the Board on its own behalf or on behalf of a party to the proceeding in connection with any hearing, shall be directed to any officer authorized by law to serve process, and the further procedures and rules of law applicable with respect thereto shall be prescribed in connection with subpoenas to the same extent as if issued by a court of record. In case of a refusal to obey a notice of hearing or subpoena issued by the Board, application may be made to the superior court of the appropriate county for enforcement thereof.

(6) The burden of proof at any hearing shall be upon the person or the Board, as the case may be, at whose instance the hearing is being held.

(7) Without regard to paragraph (6) of this subsection, the burden of proof to justify the safety of any pesticide shall be upon the applicant for registration or for licenses or permits to use, apply or sell pesticides.

(8) No decision or order of the Board shall be made in any proceeding unless the same is supported by competent, material and substantial evidence upon consideration of the whole record.

(9) Following any hearing, the Board shall afford the parties thereto a reasonable opportunity to submit within such time as prescribed by the Board proposed findings of fact and conclusions of law and any brief in connection therewith. The record in the proceeding shall show the Board's ruling with respect to each such requested finding of fact and conclusion of law.

(10) All orders and decisions of the Board shall set forth separately the Board's findings of fact and conclusions of law and shall, wherever necessary, cite the appropriate provision of law or other source of authority on which any action or decision of the Board is based.

(11) The Board shall have the authority to adopt a seal which shall be the seal of said Board and which shall be judicially noticed by the courts of the State.

Any document, proceeding, order, decree, special order, rule, regulation, rule of procedure or any other official act or records of the Board or its minutes may be certified by the Chairman or Secretary of the Board under his hand and the seal of the Board and when so certified shall be received in evidence in all actions or proceedings in the courts of the State without further proof of the identity of the same if such records are competent, relevant and material in any such action or proceeding. The Board shall have the right to take judicial notice of all studies, reports, statistical data or any other official reports or records of the federal government or of any sister state and all such records, reports and data may be placed in evidence by the Board or by any other person or interested party where material, relevant and competent.

(d) Any person who is aggrieved by a final decision of the Board in any matter shall have a right of appeal to the superior court pursuant to the provisions of Article 33 of G.S. Chapter 143.

§ 143-465. Reciprocity; intergovernmental cooperation. — (a) The Board may issue any license required by this Article on a reciprocal basis with other states without examination to a non-resident who is licensed in another state substantially in accordance with any of the provisions of the Article, provided that financial security as provided for in G.S. 143-467 is met.

(b) The Board may cooperate or enter into formal agreements with any other agency of this State or its subdivisions or with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this Article.

(c) In order to avoid confusion resulting from diverse requirements and to avoid increased costs to the people of this State due to the necessity of complying with such diverse requirements in the manufacture and sale of such pesticides, it is desirable that there should be
uniformity between the requirements of the several states and the federal government relating to such pesticides. To this end the Board is authorized, after public hearing, to adopt by regulation such regulations, applicable to and in conformity with the primary standards established by this Article, as have been or may be prescribed with respect to pesticides by departments or agencies of the United States government.

§ 143-466. Records; information; inspection; enforcement. — (a) The Board shall require licensees to maintain records with respect to the sale and application of such pesticides as it may from time to time prescribe. Such relevant information as the Board may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and shall be available for inspection by the Board or its agents at its request.

(b) The Board may publish information regarding injury which may result from improper application or use of pesticides and the methods and precautions designed to prevent such injury.

(c) The Board may provide for inspection of any equipment used for application of pesticides and may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by the Board by regulation.

(d) The Board may provide for inspection of any place of business where pesticides are stored or sold and may require changes in methods of handling, displaying and storing of all pesticides. A list of requirements that places of business must meet may be adopted by regulation of the Board.

(e) For the purpose of carrying out the provisions of this Article, inspectors designated by the Board may enter upon any public or private premises at reasonable times, in order:

(1) To have access for the purpose of inspecting the premises and any equipment subject to this Article and such premises on which such equipment is kept or stored;

(2) To inspect lands actually or reported to be exposed to pesticides;

(3) To inspect storage or disposal areas;

(4) To inspect or investigate complaints of injury to humans, land or plants; or

(5) To sample pesticides being applied, or to be applied.

No person shall refuse entry or access to any authorized representative of the Board who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties. Should the Board or its designated agent be denied access to any land where such access was sought for the purposes set forth in this Article, the Board may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application issue the search warrant for the purposes requested.

§ 143-467. Financial responsibility. — (a) The Board may require from a licensee or an applicant for a license under this Article evidence of his financial ability to properly indemnify persons suffering damage from the use or application of pesticides, in the form of a surety bond, liability insurance or cash deposit. The amount of this bond, insurance or deposit shall be determined by the Board, in light of the risk of damage. The indemnification requirements may extend to damage to persons and property from equipment used (including aircraft).

(b) The Board may also require a reasonable performance bond with satisfactory surety to secure the performance of contractual obligations of the licensee, with respect to application of pesticides. Any person injured by the breach of any such obligation or any person damaged by pesticides or by equipment used in their application shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained.
...Any regulations adopted by the Board pursuant to G.S. 143-461 to implement this section may provide for such conditions, limitations and requirements concerning the financial responsibility required by this section as the Board deems necessary, including but not limited to notice of reduction or cancellation of coverage, deductible provisions, and acceptability of surety. Such regulations may classify financial responsibility requirements according to the separate license classifications and subclassifications prescribed by the Board pursuant to G.S. 143-452 and the dealer category (Part 3 of this Article).

§ 143-468. Disposition of fees. — All fees and charges received by the Board under this Article shall be deposited in the Department of Agriculture General Fund Budget for the purpose of administration and enforcement of this Article, with proper approved accounting procedures accounting for all expenditures and receipts.

§ 143-469. Penalties. — Any person who shall be adjudged to have violated any provision of this Article, or any regulation of the Board adopted pursuant to this Article, shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than one hundred ($100.00) nor more than one thousand dollars($1,000) or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

§ 143-470. Provisional or interim licenses. — The Board is hereby authorized to adopt regulations providing for the issuance of interim or provisional licenses to any or all categories of licensees under this Article. Such regulations, among other things, may waive any particular license requirements, may reduce any license qualification or requirement, and may provide for the phasing of the effectuation of any license requirement. No interim or provisional license issued pursuant to this section shall have an expiration date later than December 31, 1973."

Sec. 2. G.S. 66-57 (Exemptions from Fair Trade Law) is hereby amended by adding thereto at the end thereof the following: "This Article shall not apply to any prices offered in connection with or contracts or purchases respecting pesticides, as defined by G.S. 143-460."

Sec. 3. G.S. 150-9 (Definitions — Uniform Revocation of Licenses) is hereby amended by inserting therein after the word and punctuation "Examiners," the words "the North Carolina Pesticide Board", so as to add the North Carolina Pesticide Board to the list of agencies that are subject to the Uniform Revocation of Licenses Law (G.S. Chapter 150).

Sec. 4. The following acts, as amended, are hereby repealed as being obsolete under existing circumstances or unnecessary in light of provisions contained in this act: G.S. Chapter 106, Articles 4 (Insecticides and Fungicides), 4A (Insecticide, Fungicide and Rodenticide Act of 1947) and 4B (Aircraft Application of Pesticides).

Sec. 5. This act shall not be deemed to repeal the Structural Pest Control Act of North Carolina of 1955, as amended (G.S. Chapter 106, Article 4C).

Sec. 6. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(a) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law so repealed.

Sec. 7. (a) Notwithstanding any other provision of law, all existing rules and regulations concerning pesticides of the North Carolina Department of Agriculture and of any other department or agency of the State of North Carolina, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified or amended.

(b) No action or proceeding of any nature concerning pesticides (whether civil or criminal, judicial or administrative or otherwise) pending at the effective date of this act by or...
against or before the North Carolina Department of Agriculture or any other department or agency of the State of North Carolina shall be abated or otherwise affected by the adoption of this act.

Sec. 8. Severability. — If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. The following provisions of this act shall be effective January 1, 1972: (a) Parts 3 and 4 of Article 52 of G.S. Chapter 143, as added by this act; (b) G.S. 143-442 through 143-445, as added by this act; and (c) Sec. 4 of this act. The remainder of this act shall be effective October 1, 1971.

In the General Assembly read three times and ratified, this the 12th day of July, 1971.