

1993 Assembly Bill 607

Date of enactment: **December 14, 1993**
Date of publication*: **December 28, 1993**

1993 WISCONSIN ACT 116

AN ACT *to amend* 159.09 (3) (b); and *to create* 94.701 of the statutes, **relating to:** limiting local regulation of pesticides and refusal to accept nonhousehold pesticide containers at recycling facilities or sites.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 94.701 of the statutes is created to read:

94.701 Pesticides; local regulation. (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of pesticides.

(2) In this section, "political subdivision" means a city, village, town or county.

(3) (a) Except as provided in par. (b) or (c), a political subdivision may not prohibit the use of or otherwise regulate pesticides.

(b) A political subdivision may enact an ordinance that does any of the following:

1. Regulates pesticide use on property in which the political subdivision has a fee simple ownership interest.

2. Zones areas with respect to pesticide manufacturing, distribution and disposal.

3. Implements any regulation of pesticides that the political subdivision is required by federal law or other state laws to implement.

4. Implements a cooperative agreement with the federal environmental protection agency under 7 USC 136u (a).

5. Prohibits conduct that is the same as conduct prohibited under ss. 94.69 to 94.71 or 7 USC 136 to 136y.

6. Requires that, when notification of pesticide use is required by state or federal law, notification of that use be given to the political subdivision.

7. Sets standards for fire prevention in the storage of a pesticide that poses a fire hazard.

8. Regulates pesticides pursuant to a storm water management program that is consistent with 40 CFR 122.26.

(c) A political subdivision may enact an ordinance or enter into an agreement under s. 144.445 (9) relating to the storage, treatment or disposal of solid waste containing pesticides, pesticide containers or pesticide residues.

(4) (a) 1. No later than the first day of the 3rd month beginning after the effective date of this subdivision ... [revisor inserts date], a political subdivision shall provide the department with a copy of any ordinance that is authorized under sub. (3) and that is enacted before the effective date of this subdivision ... [revisor inserts date].

2. A political subdivision may not enact an ordinance that is authorized under sub. (3) until it consults with the department. If a political subdivision enacts an ordinance that is authorized under sub. (3), it shall provide the department with a copy of the ordinance no later than 60 days after enactment.

(b) Before March 1 of each year, a political subdivision with an ordinance that is authorized under sub. (3) (b) 5. shall notify the department of all enforcement actions taken under that ordinance during the preceding year.

SECTION 2. 159.09 (3) (b) of the statutes is amended to read:

159.09 (3) (b) Adopt an ordinance to enforce the program established under sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for violations of that ordinance. The ordinance may authorize the responsible unit or person designated under par. (a) to

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refuse to accept solid waste at the recycling facility or site if the solid waste is a container for a nonhousehold pesticide, as defined in s. 94.68 (3) (a) 2, is contaminated or is otherwise in a condition that makes recycling infeasible.

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ble. The ordinance may require a person to use a facility for the recycling of solid waste or for the recovery of resources from solid waste, as defined in s. 159.13 (1) (d), only as provided under s. 159.13.