



University of Hawaii at Manoa

Environmental Center
A Unit of Water Resources Research Center
Crawford 317 • 2550 Campus Road • Honolulu, Hawaii 96822
Telephone: (808) 956-7361

RL:01054

HB 3227 RELATING TO PESTICIDES

House Committees on
Energy and Environmental Protection
Intergovernmental Relations and International Affairs

Public Hearing - February 20, 1992
8:30 AM, Rm 1310 SOT

By
John T. Harrison, Environmental Center
Jacquelin Miller, Environmental Center
Barry Brennan, Agricultural Biochemistry

HB 3227 would restrict the authority for implementation of regulations for pesticide application to State level government agencies for the purpose of achieving consistency of regulation statewide.

Our statement on this measure does not constitute an institutional position of the University of Hawaii.

There is a lot to be said for uniformity of regulatory practices as a desirable management goal. Ancillary benefits include efficiency of implementation, less confusion within the regulated community, and concomitant simplification of enforcement.

However, generalizing regulatory protocols presents a dilemma in accommodating site-specific variation in the characteristics and sensitivities of the environment to be regulated. Recognizing this variability, the federal government generally has adopted a regulatory philosophy which establishes standard criteria for minimal compliance by all localities but does not infringe upon the right of the states or other political entities to adopt and enforce more stringent standards (c.f., the Clean Air Act, Clean Water Act, etc.).

Our concern with this bill is that in preempting regional authority below the state line agency level, the state will be pressured to adopt regulations which may be inappropriately stringent for certain localities in order to meet the verifiable management controls needed in more sensitive areas. Potential problems which might arise are exemplified by concerns raised during last year's legislature regarding roadside spraying of herbicides for highway margin maintenance. The report of the Task Force appointed to consider the issue is in preparation, but it is appropriate to note that in deliberating the problem, the task force contacted 9 states and 17 counties dealing with similar problems, and the overwhelming conclusion

reached was that regulatory flexibility was necessary to achieve a reasonable integrated vegetation management program. In particular, the survey pointed out the need for regionally based site-specific evaluation of environmental and geographical conditions of perceived problem areas, as well as growth requirements and life cycles of problematic species.

During public deliberation of SB 2506, which is virtually identical to HB 3227, there was general agreement that in certain instances, local regulation of pesticide issues has proven effective, particularly with regard to watershed protection and landfill management. In addition, legitimate concerns were voiced over the lack of funding and expertise at the county level to implement pesticide regulatory programs. In consideration of these factors, we suggest the following amendments to the present bill.

- 1) Existing regulations and ordinances should be preserved, subject to review by the Hawaii Department of Agriculture and its Pesticide Advisory Committee. This may be effected by deleting the words, "or continue in effect" from lines 11 and 12.
- 2) Specific provision should be made for representation of each county on the Pesticide Advisory Committee through appropriate amendment of Section 149A-51, HRS.
- 3) In the case of amendment or adoption of rules having specific county or regional application pursuant to the authority vested in the Board of Agriculture in Section 149A-22, HRS, there should be provision for a public hearing and notification within the affected localities pursuant to Section 91-3, HRS.

We believe the proposed amendments will serve to strengthen HB 3227 by accommodating the need for site-specific regulatory applicability while preserving the uniformity sought by the original measure.