

GRAPE GROWERS; USE OF CHEMICAL SUBSTANCES

Act 6 of 1959

AN ACT to empower the director of agriculture to issue orders under certain conditions prohibiting or restricting the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) and MCP (2 Methyl, 4 Chlorophenoxyacetic acid) causing damage to grape vineyards or crops of grapes within affected areas; and to provide a penalty for violation of such orders.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

The People of the State of Michigan enact:

286.401 Grape growers; chemical substances; definitions.

Sec. 1. As used in this act:

- (a) "Grape grower" means a producer of grapes for profit.
- (b) "Grape vineyard" means lands upon which grapevines are maintained and harvested for profit.
- (c) "Townships" means government survey townships, and need not be in the same county.
- (d) "Proximity" means a radial distance of 2 miles from the site of damage.
- (e) "Development" means natural and normal growth before harvest.
- (f) "Affected area" means the area defined in the petition. The affected area may be altered by description in the order of the director, if the director finds that such alteration should be made to effectuate the purposes of the petition.
- (g) "Major source of agricultural income" means that the producers of grapes within the affected area obtain at least 10% of their gross income as a group in any 5-year period from the production of grapes.
- (h) "Director" means the director of the state department of agriculture.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.402 Chemical substances; petition by grape grower for prohibition.

Sec. 2. Whenever the director receives a petition in a form prescribed by him, signed by 10 or more grape growers in the same or contiguous townships in this state, alleging that the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) in proximity to grape vineyards or crops of grapes described in the petition has proved harmful to the development of grapevines or the grape crop in the affected area in the same or any prior year and asking that the use of such chemical substances be prohibited or restricted within the affected area, the director shall ascertain whether at least 10 of the signers of the petition are grape growers and owners of grape vineyards within the affected area. In counting the required number of petitioners, joint tenants or tenants by the entireties shall be counted as 1 signer.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

286.403 Chemical substances; hearing, posting of notice.

Sec. 3. If the director determines that the petition is properly filed, he shall hold a public hearing after giving at least 10 days' notice of the time and place at which the hearing will be held by posting in at least 5 of the most public places within the affected area, and by notice by mail to each of the petitioners and to each manufacturer, supplier and dealer furnishing the chemical substance complained of within the affected area, so far as is known to the director, after diligent inquiry. Proof of notice shall be evidenced by affidavit of the director appended to the minutes of the hearing at which the petition is considered.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.404 Chemical substances; director's findings; damage; orders, continuing effect.

Sec. 4. If the director finds, from testimony adduced, that:

- (a) There has been actual damage to grapevines or grape crops within the affected area; and
- (b) Such damage was caused by the use of the chemical substance complained of in the petition, and by that cause alone; and
- (c) Such use was upon lands within the affected area or in proximity to the affected area, or upon the damaged crop itself; and

(d) The commercial production of grapes within the affected area constitutes a major source of agricultural income within the affected area; then the director may issue his order prohibiting or restricting the use of 2,4-D (2,4-Dichlorophenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area during the period from May 1 to

October 1. The order shall continue in effect from year to year unless modified or rescinded by the director. Not later than March 15 of each year, the director shall give notice of the order by publication in a newspaper of general circulation in the area affected. The notice shall state the terms of the order in general language and that the order will continue in effect for the ensuing period of May 1 to October 1, unless a petition for modification or rescission of the order, signed by 10 or more grape growers or 50 or more persons not grape growers in the affected area, is filed with the director on or before April 1. If a request for modification or rescission is received, the director shall hold a hearing after giving notice as provided in section 3. After the hearing, the director shall make such findings as the evidence adduced justifies and may continue, modify or rescind the order. If the director modifies or rescinds the order, he shall give notice of his action as provided in section 4. All restrictions upon the use of 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to the affected area shall be set forth in the order with particularity.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.

286.405 Chemical substances; orders, effective date.

Sec. 5. All orders shall be effective upon posting the same prominently in at least 5 of the most public places within the affected area. They shall be published in the administrative code, provided for in Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.82 of the Compiled Laws of 1948, but publication within the quarterly supplement to the administrative code shall not be a condition precedent to their effectiveness.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959.

286.406 Chemical substances; penalty for violation.

Sec. 6. Any person who uses 2,4-D (2,4-Dichlorolphenoxyacetic acid), 2,4-5-T (2,4-5-Trichlorophenoxyacetic acid) or MCP (2 Methyl, 4 Chlorophenoxyacetic acid) within or in proximity to an affected area, in violation of an order of the director prohibiting or restricting such use, is guilty of a misdemeanor.

History: 1959, Act 6, Imd. Eff. Apr. 9, 1959;—Am. 1963, Act 70, Eff. Sept. 6, 1963.