

SUBJECT: Application of biological pesticides by political subdivision workers

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 4 ayes — Hardcastle, Miller, B. Brown, Swinford

0 nays

1 present not voting — Burnam

2 absent — D. Jones, Laney

SENATE VOTE: On final passage, March 27 — 30-1 (Estes)

WITNESSES: For — Mark Mendez, Tarrant County Commissioners Court

Against — None

BACKGROUND: Agriculture Code sec. 76.105 requires a person purchasing or using a restricted use or state-limited-use pesticide to be licensed — as a commercial applicator, noncommercial applicator, or private applicator — or to be acting under the direct supervision of a licensed applicator, or to be a certified private applicator.

Occupations Code ch. 1951 deals with persons applying pesticides under the Structural Pest Control Act. Under sec. 1951.053, the Structural Pest Control Act does not apply to a person performing pest control work on plants or rights-of-way if the person is employed by a political subdivision, has an applicator license from the Texas Department of Agriculture (TDA), or works under the direct supervision of a licensee, and complies with TDA's annual continuing education requirements.

DIGEST: CSSB 759 would provide that state law would not prohibit a subdivision from reducing the number of training hours or other requirements for its employees who conducted larval mosquito control on the political subdivision's property and used biological pesticides approved for general use by the Texas

Department of Health, if the employee received instructions to ensure the safe and effective use of the pesticides.

The bill would take effect on June 1, 2003, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

CSSB 759 is necessary to allow county road crews and others who work for political subdivisions to deal quickly with breeding places for mosquitos. The bill would create a narrow, specific exception to current laws, while ensuring that such workers had adequate information to safely combat mosquitos. Current requirements for receiving an applicator's license can include some 42 hours of training, annual continuing education, and paperwork documenting the applications of pesticides, all of which would be unnecessary for the limited, safe situations described by CSSB 759.

Currently, when county workers come across standing water in ditches or other areas that are breeding grounds for mosquitos, they can apply pesticides only if they are licensed by the state or working under the supervision of a licensee. Often the workers who notice the mosquito hazard are road maintenance crews, county survey crews, or others who are not licensed pesticide applicators. By the time the workers report the problem and a licensed applicator is dispatched to the scene, the mosquito larvae might have become adult insects, causing a public health problem. This is particularly worrisome given the outbreak last summer of West Nile Virus, which can be spread through mosquito bites.

CSSB 759 would help solve this problem by creating a narrow exception to current law, allowing county workers who had received instructions to apply harmless, over-the-counter biological pesticides. It would apply only to employees conducting larval mosquito control and not to those combating other pests. The property would have to be owned or controlled by the political subdivision, so no action could be taken on private lands.

CSSB 759 would permit only the use of biological pesticides approved for general use, including over-the-counter products such as discs or bits that contain bacteria. When placed into water, these products kill mosquito larvae, but are harmless to humans, fish, and other animals. Such biological agents

are sold at home improvement stores and other places, and private citizens can use them without any type of licensing. CSSB 759 simply would allow workers for political subdivisions to do the same.

This bill would not allow the spraying of chemical or synthetic pesticides by unlicensed employees, and could reduce the use of such pesticides that some claim are dangerous. By allowing political subdivisions to kill more mosquitos at the larval stage, fewer would become adult mosquitos that prompted pesticide spraying.

It would be inappropriate for CSSB 759 to establish a minimum number of hours of instructions for workers since the amount of time necessary to provide the information could vary depending on the knowledge and experience of the worker. The bill's requirement that the instructions be adequate to ensure the safe and effective use of the pesticide would suffice to assure the proper use of these products.

**OPPONENTS  
SAY:**

CSSB 759 should set some minimum amount of training or education required before political subdivision workers could apply the biological pesticides, or require some minimum documentation of the efforts. Even over-the-counter products can be dangerous and special care should be taken when applying any pesticide to public property. Leaving the information requirements up to counties or cities could result in varying amounts of training with some workers not receiving enough instructions to safely apply the pesticides.

**NOTES:**

SB 759 as engrossed would have specified that an employee of a political subdivision who did not hold a commercial or noncommercial applicator license from TDA would not be prohibited from applying a general use pesticide in an incidental use situation.