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## **Healthy Schools Act of 2000: Reducing Exposure of School Children to Toxic Substances or Tying the Hands of Educators to Manage Pestilence?**

*Timothy J. Baldwin*

### *Code Sections Affected*

Education Code §§ 17608, 17609, 17610, 17610.5, 17611, 17612, 17613, 48980.3 (new); Food and Agricultural Code §§ 13180, 13181, 13182, 13183, 13184, 13185, 13186, 13187, 13188 (new).  
AB 2260 (Shelly); 2000 STAT. Ch. 718

### I. INTRODUCTION

Growing concerns for the health and welfare of children attending California schools, recently highlighted in news articles throughout the State, prompted the Legislature to take action aimed at reducing school children's exposure to potentially dangerous pesticides and other environmental hazards.<sup>1</sup> Specifically, the concerns are that pesticides applied on school campuses to control pests such as cockroaches and weeds are negatively impacting student health, behavior and IQ.<sup>2</sup> Additionally, portable classrooms, widely utilized by schools throughout California to meet reduced class-size requirements, have been criticized for making children sick due to poor air quality.<sup>3</sup>

Children are considered to be more sensitive to environmental toxins than adults due to their developing bodies.<sup>4</sup> Therefore, when a public interest group reported

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1. *Toxic Portables?*, SACRAMENTO BEE, June 6, 1999, at B8; *Detoxifying Classrooms*, S.F. CHRON., June 17, 1999, at A26; Caroline Grannan & Ann Melamed, *Health Risks of Classrooms*, S.F. CHRON., Oct. 5, 1999, at A25; see also ASSEMBLY COMMITTEE ON EDUCATION, COMMITTEE ANALYSIS OF AB 2260 at 3-4 (Apr. 12, 2000) (describing the need for legislation because "[a] number of recent reports and newspaper accounts raise concerns about environmental safety in schools").

2. See Michael Luo, *Schools' Use of Toxic Pesticides Draws Fire*, L.A. TIMES, Apr. 5, 1999 (highlighting studies associating pesticides with childhood illnesses including asthma, leukemia and attention deficit disorder, yet stating that no evidence links these illnesses to the low level exposure expected from school applications).

3. See generally, Chris Bowman & Deb Kollars, *Worry on Air in Portable Classes*, SACRAMENTO BEE, May 27, 1999, at A1 (discussing potential environmental air quality contaminants, such as molds, formaldehyde and fumes from construction materials present in portable classrooms throughout the state and their potential effect on children); and CAL. EDUC. CODE § 13181 (amended by Chapter 718) (creating a new statewide indoor environmental quality task force to address student health concerns not limited to pesticides).

4. See Letter from Dr. Robert Black, Chair, Committee on State Government Affairs, American Academy of Pediatrics, to Assemblymember Kevin Shelley (Apr. 20, 2000) (on file with the *McGeorge Law Review*) (supporting pesticide regulating legislation and stating concerns about children's vulnerability to pesticide

survey findings that 87% of California schools used pesticides considered by regulatory agencies to be potentially harmful, concerned parents and community groups made an emotional call for reform.<sup>5</sup> Two of the largest school districts in the state, Los Angeles and San Francisco, have addressed these concerns by enacting policies focused on phasing out all pesticide use on school campuses.<sup>6</sup>

Like most emotional political issues, the rhetoric may not clearly reflect the dilemma that arises from balancing the threat to health and safety that insect, rodent, and weed pests pose with the need for safe applications of pesticides.<sup>7</sup> Another recent survey found that 78% of Californians surveyed believe more should be done to protect children from pests, and 64% agreed that pesticides were critical for controlling pests.<sup>8</sup> Not surprisingly, the Los Angeles Unified School District has come under fire for their ban on pesticide use due to parental complaints of children tripping and skinning their knees on playground weeds, and the overgrown condition of playgrounds and ball fields resulting from discontinued use of herbicides.<sup>9</sup>

Chapter 718 attempts to address the concerns that parents, teachers and community members have regarding pesticide use on school grounds and its effects on students.<sup>10</sup> Chapter 718 implements an integrated pest management program utilizing the safest, most effective means of pest control.<sup>11</sup> In addition, Chapter 718 calls for the notification of parents and school employees of all pesticides used on school grounds.<sup>12</sup> In establishing these new programs, Chapter 718 aims to meet the informational needs of those concerned with pesticide use in schools.<sup>13</sup>

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exposure).

5. See, e.g., *Pesticide Controls Mean Safer Schools*, OAKLAND TRIB., May 23, 1999 (reporting survey results gathered by California Public Interest Research Group, a legislative sponsor of Chapter 718).

6. Carl Ingram, *Bill Requiring Belts on School Buses Signed*, L.A. TIMES, Oct. 7, 1999, at A11 (reporting on the 1999 California legislative session and the veto of AB 1207, legislation preceding Chapter 718 which attempted to regulate pesticide use in schools).

7. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (June 19, 2000) (noting that children are especially sensitive to bites from ticks, wasps, ants and scorpions, and possess the potential for allergic reactions to roaches, concluding that pesticides can effectively control these pests without scientifically proven hazardous effects to children).

8. Chemical Specialties Manufacturers Assoc., *Californians Concerned That Insects and Rodents Endanger Children's Health, Survey Shows*, available at <http://www.csma.org> (visited Apr. 19, 2000) (copy on file with the McGeorge Law Review).

9. Kristina Sauerwein, *Growing Pains*, L.A. TIMES, Aug. 22, 1999 at Metro.

10. See ASSEMBLY COMMITTEE ON EDUCATION, COMMITTEE ANALYSIS OF AB 2260, at 4-5 (Apr. 12, 2000) (describing arguments in support of legislation).

11. CAL. EDUC. CODE § 13181 (amended by Chapter 718).

12. CAL. EDUC. CODE § 17612 (enacted by Chapter 718).

13. See ASSEMBLY COMMITTEE ON EDUCATION, COMMITTEE ANALYSIS OF AB 2260, at 4-5 (Apr. 12, 2000) (describing arguments in support of legislation).

## II. LEGAL BACKGROUND: PRIOR AND EXISTING LAW

All pesticide registrations and applications are regulated federally by the United States Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA),<sup>14</sup> and locally by the California Department of Pesticide Regulation (DPR).<sup>15</sup> The EPA registers all pesticides for sale and use based upon the determination that a pesticide will not cause undue harm to human health or the environment.<sup>16</sup> Although under FIFRA, the EPA does not specifically address the adverse impact of pesticide applications in school settings, studies are used to determine the relative health risks to infants and children prior to registration for use.<sup>17</sup> Testing by the EPA leads to the requirement of restrictive labels on pesticides along with instructions regarding their use.<sup>18</sup>

At the State level, the DPR governs the sale and use of pesticides for all applications, including those performed on school grounds.<sup>19</sup> Conducting its own review of all pesticides prior to registration and use in California, the DPR enforces all federal and State laws regarding pesticide use, requires that all pesticide applications be reported, and promotes integrated pest management innovations.<sup>20</sup> Consistent with State and Federal Law, the DPR classifies all pesticides in accordance with their potential hazard to applicators, farm workers, and to the environment, as either category I, II, or III pesticides.<sup>21</sup> Pesticides deemed to present the greatest harm to human health and the environment are also designated as restricted materials, requiring additional application procedures.<sup>22</sup>

Prior to Chapter 718, no federal<sup>23</sup> or California statute required the adoption of an integrated pest management (IPM) program for pesticide use in schools.<sup>24</sup>

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14. Federal Insecticide, Fungicide, and Rodenticide Act 7 U.S.C.A. § 136 (1999).

15. CAL. FOOD & AGRIC. CODE § 11454 (West Supp. 2001).

16. 7 U.S.C.A. § 136(a)5 (West Supp. 2001).

17. 7 U.S.C.A. § 136(a)1; see U.S. GEN. ACCT. OFF., REPORT NO. 00-17, USE, EFFECTS, AND ALTERNATIVES TO PESTICIDES IN SCHOOLS 1 (1999) (copy on file with the *McGeorge Law Review*) [hereinafter *G.A.O. Report*] (reporting to the United States Senate Committee on Governmental Affairs on pesticide use in schools).

18. 7 U.S.C.A. § 136(d)1.

19. CAL. FOOD & AGRIC. CODE § 11454 (West Supp. 2001).

20. *Id.* at §§ 11501.1, 12815 (West Supp. 2001); CAL. HEALTH & SAFETY CODE § 100575 (West Supp. 2001).

21. CAL. FOOD & AGRIC. CODE § 17610(b) (amended by Chapter 718) (declaring that under State and federal law, the DPR classifies all pesticides according to their relative safety with a signal word, as follows: Category I, Danger; Category II, Warning; Category III, Caution).

22. See *id.* (regulating the most hazardous pesticides as restricted use, requiring special permits for application).

23. See *G.A.O. Report, supra* note 17, at 10 (expressing concerns that a national requirement for the implementation of an IPM program in schools would be troublesome due to the varying pest problems and the lack of resources for implementation and enforcement).

24. See James Wells, *Department of Pesticide Regulation Opposes Bureaucracy to Dictate School Pesticide Policy*, available at <http://www.cdpr.ca.gov> (last modified Jan. 7, 1998) (copy on file with the *McGeorge Law Review*) (identifying the DPR's commitment toward implementing voluntary IPM programs throughout California schools).

Adoption of an IPM approach to school pest management entails taking a “sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health and environmental risks.”<sup>25</sup> However, even without a statutory requirement for the adoption of IPM in California schools, voluntary programs encouraged by the DPR have flourished over the past several years.<sup>26</sup>

### III. CHAPTER 718

By calling for state mandated IPM practices, requiring parental notification, and mandating the posting of areas of pesticide application throughout California schools, Chapter 718 transforms voluntary programs into a new legislative mandate.<sup>27</sup> This approach to school pest management, however, is not novel. Currently, seven states throughout the United States have passed laws requiring the adoption of IPM in school pest control efforts.<sup>28</sup> Nine states have adopted varying forms of parental notification, and eighteen require the posting of treated areas.<sup>29</sup> Following this legislative trend for the expansion of pesticide regulation in schools, Chapter 718 codifies the voluntary efforts previously promoted under existing laws, and under the regulations of the DPR.<sup>30</sup>

#### A. Overview

Impacting primary and secondary public education facilities throughout the State of California, the Healthy Schools Act of 2000<sup>31</sup> mandates several notification

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25. *Id.*

26. See Press Release Placer Hills School District to Receive Award for Innovations in Environmentally Friendly Pest Control, available at <http://www.cdpr.ca.gov> (last modified Jan. 7, 1998) (copy on file with the *McGeorge Law Review*) (demonstrating the DPR’s success in encouraging voluntary IPM programs at schools).

27. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 4 (describing Chapter 718 as “creating a new, costly, cumbersome, inflexible, prescribed process”).

28. See *G.A.O. Report, supra*, note 17, at 8 (listing other states that have adopted IPM programs including: Illinois, Louisiana, Maryland, Michigan, Texas, West Virginia, Montana); see, e.g., ILL. ANN. CODE § 225-235-10.2 (West 1999), MD. AGRIC. CODE § 5-208.1 (Michie 1988), MONT. AGRI. CODE § 80-8-401 (West 1993) (detailing statutes establishing IPM guidelines for school pesticide applications).

29. See *G.A.O. Report, supra*, note 17, at 9 (highlighting states that require parental notification of pesticide use including: Connecticut, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Pennsylvania, Texas, West Virginia, states requiring posting of applications sites: Colorado, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, Ohio, Rhode Island, Texas, Vermont, Washington, Wisconsin); see, e.g., CONN. STAT. ANN. CODE 99-165 § 1 (West Supp. 1999), ILL. ANN. CODE § 225-235-10.2 (West Supp. 2000), IOWA ANN. CODE § 206.19 (West 1995), MICH. ANN. CODE § 324.8316 (West 1995), MD. AGRIC. CODE § 5-208.1 (Michie 1988) (establishing notification requirements for pesticide applications within schools).

30. Wells, *supra* note 24 and accompanying text.

31. See CAL. EDUC. CODE § 17608 (enacted by Chapter 718) (declaring that Chapter 718 “shall be known and cited as the Healthy Schools Act of 2000”).

and procedural changes in school pesticide applications,<sup>32</sup> and creates a new definition of Integrated Pest Management for schools, to be promoted and implemented by the DPR.<sup>33</sup>

### B. Notification

The pesticide notification provisions called for by Chapter 718 clearly pose the greatest burden on school personnel and resources.<sup>34</sup> Annually, a designated employee at every school throughout California must compile a list of all pesticides, with the exception of self-contained bait stations and common sanitizing cleaners that school personnel expect to utilize throughout the school year.<sup>35</sup> This information, including the names of the products' active ingredients, is to be provided to all staff, parents and guardians in the most effective and cost efficient manner.<sup>36</sup> School staff, parents and guardians may then register to receive individual notice seventy-two hours prior to any pesticide application.<sup>37</sup> If school pest management officials decide that conditions require additional pesticide applications of products not included in the original annual notification, all staff, parents and guardians must be notified within seventy-two hours prior to application.<sup>38</sup> Furthermore, if any category I or II pesticide, with a signal word other than "Caution," is used, all staff, parents and guardians, must be notified seventy-two hours in advance of application.<sup>39</sup> The notice must contain specific information including: the pesticide name, the active ingredient, the manufacturer, the EPA and DPR registration number, the signal word, and the date and the time of application.<sup>40</sup> Emergency pest control applications, defined as immediate pest threats to health and safety of students, are exempted from these notification requirements, although notification is strongly encouraged.<sup>41</sup>

Designated school district personnel are also required to post all treatment locations twenty-four hours prior to application, and the posted warnings must remain in place for seventy-two hours after application regardless of the particular pesticide's EPA established worker safety reentry interval.<sup>42</sup> Posted warnings must

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32. *Id.* at §§ 17611, 17612 (enacted by Chapter 718).

33. CAL. FOOD & AG. CODE § 13181 (amended by Chapter 718).

34. *See* Letter from Ted Witt, Executive Director, California Association of School Business Officials to Assemblymember Shelley (Sept. 17, 1999) (on file with the *McGeorge Law Review*) (expressing concern that similar notification requirements in AB 1207, prior legislative attempt vetoed by the Governor, would be overly burdensome, while reducing teacher time in the classroom).

35. CAL. EDUC. CODE § 17612(a) (enacted by Chapter 718).

36. *Id.*

37. *Id.* § 17612(1) (enacted by Chapter 718).

38. *Id.* § 17612(2) (enacted by Chapter 718).

39. *Id.* § 17612(3) (enacted by Chapter 718).

40. *Id.*

41. *Id.*

42. *Id.*

include: (1) the statement, "Warning/Pesticide Treated Area"; (2) the pesticide name; (3) the name of the manufacturer; (4) the EPA registration number; and (5) the date, area, and reason for the pesticide application.<sup>43</sup> Posted warnings must also be visible for all potential entrants into the treated area.<sup>44</sup>

### C. Integrated Pest Management

Notably, Chapter 718 establishes a definition of IPM that is unique to pest control efforts within California state public schools.<sup>45</sup> The new law defines IPM as pest control efforts directed toward the prevention and suppression of pests by using numerous techniques including prevention, monitoring, sanitation, cultural control practices, and the application of least toxic pesticides, in accordance with established guidelines.<sup>46</sup> In order to facilitate the adoption of the newly mandated IPM definition, the DPR is required to develop a school pest IPM program consistent with the EPA's established guidelines, including criteria for deciding upon IPM pest control measures.<sup>47</sup> Other mandated DPR responsibilities include creating an IPM coordinator position for training purposes, appointing a community advisory council, developing notification standards, and disseminating IPM program information to all school districts throughout the state.<sup>48</sup>

## IV. ANALYSIS OF CHAPTER 718

Seen by some as unreasonably prescriptive in its directives to schools, Chapter 718 has received criticism for creating a new, burdensome, and centralized regulatory scheme without regard for existing programs and their successes.<sup>49</sup> The most striking, yet least politically attractive, criticism of Chapter 718, involves the lack of scientific data indicating that the proper use of registered pesticides within California schools actually presents a threat to student health and safety.<sup>50</sup>

Important to formulating an integrated pest control strategy is the consideration of many local factors such as school schedules, climate, budget constraints, and pest

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43. CAL. FOOD & AGRIC. CODE § 12878 (enacted by Chapter 718).

44. *Id.*

45. CAL. FOOD & AGRIC. CODE § 13181 (enacted by Chapter 718); *see* Wells, *supra* note 34 and accompanying text.

46. CAL. FOOD & AGRIC. CODE § 13181 (enacted by Chapter 718).

47. *Id.* § 13184 (enacted by Chapter 718).

48. *Id.*

49. *See generally* Witt, *supra* note 37 (expressing a school association's criticism for similar legislation (AB 1207) as costly and burdensome); *see also* ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000) (noting the criticisms of Chapter 718).

50. ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000); *see also* Luo, *supra* note 2.

problems specific to particular school sites.<sup>51</sup> In the past, DPR has provided IPM guidelines for schools to utilize in developing their own pest control strategy rather than dictating the prescriptions for particular control measures.<sup>52</sup> In adding notification requirements to pesticide applications and changing the definition of IPM for California schools, Chapter 718 may be overly prescriptive in its centralized regulation of school pest control efforts.<sup>53</sup>

Notification requirements<sup>54</sup> limit pesticide applications to the least toxic pesticides; focusing on pesticide toxicity as the problem rather than addressing the pest infestation causing harm and disruption to schoolchildren.<sup>55</sup> These notification requirements will not only raise concerns among parents but may also slow pest control response time as notifications are prepared, further allowing pest populations to grow.<sup>56</sup> However, exceptions within Chapter 718 for emergency conditions, or pest outbreaks immediately requiring pesticide applications to protect health and safety, allow reprieve from all notification requirements, instilling some flexibility into the process, and potentially overcoming some concerns.<sup>57</sup> Emergency exceptions aside, Chapter 718 undoubtedly establishes a policy preferring the “least toxic pest management practices,” thus, discouraging category I and II pesticide use without regard to individual school IPM needs.<sup>58</sup> Although open to interpretation, “least toxic pest management practices” may in fact become mandated, contrary to current voluntary school IPM practices.<sup>59</sup>

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51. See Wells, *supra* note 24 (discussing why a centralized prescription of IPM from Sacramento (DPR) cannot meet the particular needs of every school).

52. See *id.* (describing the DPR’s IPM recommendations to all school districts and expanding how they are “harmonized” with the local school districts’ needs in answering to community members about classroom pest problems).

53. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000) (arguing in opposition to Chapter 718 and criticizing the bill for focusing on pesticides as the problem without considering whether a problem in regard to children’s health even exists).

54. See *supra* notes 34-44 and accompanying text (specifying the pre-notification requirement of all potential pesticides to be used throughout the year and the additional notification requirements for pesticides classified as category I and II materials).

55. See Letter from Steve Forsberg, President, Western Crop Protection Assoc., to Assemblymember Shelly, at 1-3 (Mar. 31, 2000) (on file with the *McGeorge Law Review*) [hereinafter Forsberg Letter] (criticizing Chapter 718 for focusing on pesticide toxicity as a problem for schoolchildren’s health and safety rather than focusing on pest populations).

56. *Id.*; see Letter from Harvey Logan, Executive Vice President, Pest Control Operators of California, Inc., to Assemblymember Shelly, at 1 (Mar. 31, 1999) (on file with the *McGeorge Law Review*) (noting that similar notification requirements, recently enacted in Maryland, are criticized by that State’s Department of Agriculture for allowing pest populations, particularly cockroaches, to propagate during a treatment delay attributed to the preparation for parental notification).

57. CAL. EDUC. CODE § 17609(c) (enacted by Chapter 718).

58. *Id.* § 17610(a) (enacted by Chapter 718); see Forsberg Letter, *supra* note 55, at 2 (arguing that Chapter 718 recognizes that the “dose makes the poison” in that pesticide toxicity alone without exposure does not establish risk).

59. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000) (arguing that varying interpretations of the phrase may lead to overly prescriptive control on local school pest management practices).



Furthermore, Chapter 718 establishes a definition of IPM unique to California schools,<sup>60</sup> differing from the definition of IPM recognized by the United States Congress in 1995.<sup>61</sup> Softened considerably throughout its legislative life, Chapter 718's definition of IPM varies mostly in verbiage, but clearly requires that pesticides which pose the least possible harm to humans be used.<sup>62</sup> Criticism directed toward the definition of IPM in Chapter 718 centers around the author's failure to adopt the federal definition of IPM.<sup>63</sup> However, many of these concerns were addressed by amendments made throughout the life of the bill.

Critics further argue that pesticides are already highly regulated because they must withstand the scrutiny of the EPA and the DPR, as well as comply with the recently enacted Federal Food Quality Protection Act (FQPA) of 1996, a statute that addresses pesticide exposure to sensitive groups such as children.<sup>64</sup> Notably, the EPA under the new regulatory scrutiny of the FQPA, recently banned the use of Dursban, an effective insecticide widely used in structural pest control, due to unacceptable health risks posed to children.<sup>65</sup> With federal and state regulatory bodies already addressing pesticide use and its relative safety to children, Chapter 718 increases regulations, potentially limiting the use of pesticides by schools shown to be safe when applied correctly.<sup>66</sup>

Prior to chapter 718, the DPR already had many voluntary provisions for implementing IPM programs throughout California schools.<sup>67</sup> Therefore, Chapter 718 layers another set of centralized regulations on top of existing restrictions, increasing the burden without allowing adequate time for in-place voluntary programs to realize their full potential.<sup>68</sup> Specifically, Chapter 718 calls for the development of an IPM program guidebook consistent with the EPA's recommendation for school pest control, the creation of a training curriculum, and the establishment of reporting and record-keeping requirements specific to school pesticide applications.<sup>69</sup> Several years ago, the DPR announced the creation of an

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60. See CAL. FOOD & AGRIC. CODE § 13181 (enacted by Chapter 718) (stating "[t]his definition shall apply only to IPM at school facilities").

61. See Forsberg Letter, *supra* note 55 at 2 (calling for harmonization of the IPM definition established by Congress with the definition created by Chapter 718 for California schools).

62. CAL. FOOD & AGRIC. CODE § 13181 (enacted by Chapter 718).

63. See Forsberg Letter, *supra* note 55, at 2 (criticizing pre-amendment Chapter 718 drafts for not reflecting the federal definition of IPM).

64. *Id.* (describing how pesticides "are among the most regulated products in the U.S., going through over 120 different tests during their registration process").

65. *Popular Anti-Bug Chemical Curbed*, SACRAMENTO BEE, June 8, 2000, at A1.

66. See Forsberg Letter, *supra* note 55, at 2 (expressing concern for additional regulation created by Chapter 718).

67. See Wells, *supra* note 24 (highlighting efforts by the DPR to establish IPM programs at California schools including the development of a booklet for schools, illustrating the procedure for developing IPM programs, the creation of IPM innovator awards for schools, and the organization of school outreach programs).

68. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000) (reporting criticisms of Chapter 718).

69. CAL. FOOD & AGRIC. CODE § 13181 (enacted by Chapter 718).

IPM guidebook for schools, the development of a new computerized pesticide use tracking system for schools, and the availability of IPM training curriculum including a video—all of which must now be modified or changed to match the new Chapter 718 definition of IPM and the specific requirements called for in the legislation.<sup>70</sup>

Notification and posting requirements may also create significant financial burdens.<sup>71</sup> With over 1,000 school districts and 8,000 individual school sites, including school vehicles, gardens, landscaping and athletic fields, the notification and posting requirements of Chapter 718 will divert resources away from classroom learning activities.<sup>72</sup>

Finally, the lack of scientific evidence linking low level pesticide exposure to chronic or acute illness in children raises serious questions as to the scientific foundation for this expensive and dramatic bill.<sup>73</sup> The basis of Chapter 718 and its preceding legislative attempts center around antidotal concerns and a superficial survey reporting that 87% of schools in California are using dangerous pesticides.<sup>74</sup> Criticized by the past director of the DPR for not explaining why a particular pesticide might have been used, the survey was simply an effort aimed at grabbing headlines and rallying support for the removal of pesticides from schools.<sup>75</sup> Unfortunately, Chapter 718 placed politicians in an uncomfortable position between adopting politically correct restrictions on pesticide use in schools and basing policy on established science and common sense in managing pestilence within the California school system.<sup>76</sup>

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70. See DPR Adds More "R's" in School With \$77,000 Pest Management Grant, available at <http://www.cdpr.ca.gov> (last modified July 1, 1998) (copy on file with the *McGeorge Law Review*) (describing new innovations in school IPM programs by the DPR prior to Ch. 718).

71. See ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS, COMMITTEE ANALYSIS OF AB 2260, at 3-5 (May 19, 2000) (expecting costs of Chapter 718 to exceed ten million dollars per year).

72. *Id.*

73. See *id.* (declaring that children are more vulnerable to pesticides than adults, but questioning whether children are at greater risk of injury from the use of registered pesticides in schools for which there is no scientific proof).

74. See *id.* (reporting that "pesticides are dangerous if misused, that is why their efficacy is evaluated and their use controlled through registration and labeling").

75. See Wells, *supra* note 24 (criticizing CalPRIG, a public research institute, for failing to provide accurate information in its survey explaining why certain pesticides were used in California schools for the control of lice, roach, wasp, or fire ant infestations).

76. See Witt, *supra* note 34 (describing AB 1207, a prior legislative attempt vetoed by the Governor, as "politically correct on the surface").

## V. CONCLUSION

California has always been on the forefront of pesticide regulation and use restrictions.<sup>77</sup> Over the last several years, the people of California have come to expect greater pesticide regulation throughout their communities, parks, and schools.<sup>78</sup> To claim that the Healthy Schools Act of 2000 and its additional regulation will greatly impact the daily lives of most Californians is a stretch of the imagination. Compromise resulting from the political process has significantly dulled criticism of Chapter 718's regulatory impact on California schools and its citizenry.<sup>79</sup>

Many concerns initially voiced in opposition to Chapter 718 are reflected in the amendments made during the legislative process which softened the impact of the laws as enacted.<sup>80</sup> Nevertheless, parents who are legitimately concerned about their school-aged children's sensitivity to pesticides will now have the information that they need to make choices regarding exposure.<sup>81</sup> Notification and posting requirements, though burdensome on schools, provide opportunities for parents to get involved in pest control efforts that may, or may not, affect their children's health. The overall focus on IPM programs at the school level also heightens the awareness of school management officials regarding proper pest management and hopefully encourages adequate training of personnel performing the application of pesticides.

Chapter 718 allows enough flexibility for pest control within the confines of the statute's IPM definition or under the emergency exemption.<sup>82</sup> If pest populations start to become a problem, parents are certain to voice their opinions, calling for increased efforts to control insect and weed pests.<sup>83</sup> But as more school districts and cities opt not to utilize pesticides in their pest management programs, those responsible for the protection and safety of the public will have to become more creative.<sup>84</sup> As long as pests exist, humans will desire to control them. Integrated

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77. See Michelle Locke, *Pesticide Ban Sprouts Creative Thinking*, SACRAMENTO BEE, July 2, 2000, at B4 (describing a self-imposed ban on all pesticide applications within the community of Arcata, California as at the "tip of a trend").

78. See *id.* (highlighting the recent banning of pesticide use in Arcata and the Los Angeles Unified School District).

79. *Supra* Part IV.

80. See, e.g., Forsberg Letter, *supra* note 55, at 2 (calling for changes in AB 2260, including the removal of language creating a new category of 'pesticides of special concern' which was removed from the bill through amendment).

81. *Supra* Part III.B.

82. *Id.*

83. See, e.g., Sauerwein, *supra* note 9 (describing parental complaints about the Los Angeles Unified School District's failure to adequately manage weeds under the pesticide ban).

84. See Locke, *supra* note 77 (explaining the steps city and school employees must take under pesticide bans to manage pest problems, including sealing cracks from weeds, and the introduction of roach-eating geckos, and gopher-eating snakes).

approaches offer the smartest solution to pestilence, because when infestations become overwhelming, pesticides again surface as a necessity.