

**Regulation of Sales of
Capsaicin Containing Animal Sprays
including Bear Repellent
in Manitoba**

Information for Retailers

Preface

Police Services and community groups requested stricter legislation on sales of capsaicin containing animal sprays including bear repellants because these products have been used illegally, to attack or intimidate other individuals. The Government of Manitoba responded to these requests by amending the Pesticides and Fertilizers Licence Regulation, under The Pesticides and Fertilizers Control Act, to include capsaicin containing animal sprays. The amended legislation aims to deter individuals that may use capsaicin containing animal sprays illegally from easy access to the products.

This information booklet overviews the legislation affecting retail businesses that sell capsaicin containing animal sprays. The following documents must be read and used:

- A copy of The Pesticides and Fertilizers Control Act
<https://web2.gov.mb.ca/laws/statutes/ccsm/p040e.php>
- A copy of the Pesticides and Fertilizers Licence Regulation and amendment
<http://web2.gov.mb.ca/laws/regs/current/pdf-regs.php?reg=216/87%20R>
<https://web2.gov.mb.ca/laws/regs/annual/2023/029.pdf>
- A Pesticide Dealer Licence Application Form
<https://www.gov.mb.ca/agriculture/permits-and-licences/pesticide-and-manure/pubs/licence-dealer-form.pdf>
- Record of Sales Form (Form 3)
<https://www.gov.mb.ca/agriculture/permits-and-licences/pesticide-and-manure/pubs/form3-record-of-sales.pdf>
- Declaration for Restricted Pesticides Containing Capsaicin Form (Form 7)
<https://www.gov.mb.ca/agriculture/permits-and-licences/pesticide-and-manure/pubs/form7-declaration-purchaser-bear-spray.pdf>

Retail businesses applying for a Pesticide Dealer Licence to sell capsaicin containing animal sprays including bear spray must appoint an employee that will be responsible for the licence and who will sign the Declaration form at the end of this booklet on behalf of the business. A signed Declaration acknowledges that the responsible individual has read and understood the material provided in this package.

For more information, contact:
Pesticide-Minor Use and Regulatory Specialist
Manitoba Agriculture
PO BOX 1149, 65 3rd Ave. NE, Carman, Manitoba, R0G 0J0
Phone: (204) 745-5648
Fax: (204) 745-5690
Email: agriculture@gov.mb.ca

Capsaicin Containing Animal Sprays are Pesticides

The Pest Control Products Act (PCP Act) (Canada) regulates the use of pesticides in Canada. The purpose of the PCP Act is to protect human health and the environment by ensuring the safe and effective use of pesticides. The Pest Management Regulatory Agency (PMRA), a division of Health Canada, is responsible for administering the PCP Act.

What is a pesticide?

A pesticide is defined by the PCP Act as any product used to control, destroy, attract or repel a pest or to mitigate or prevent the injurious, noxious or troublesome effects of a pest. Animal repellents, including capsaicin containing animal sprays, are pesticides by this definition.

A pesticide product may be registered for use after careful assessment of the product by the PMRA. Registered pesticide products are assigned a PCP registration number that appears on the product label. Only pesticides registered by the PMRA may be sold and used in Canada.

Pesticides are classified as domestic, commercial or restricted based on their intended use, concentration, and risk to human health and/or the environment. The class of a pesticide product is also listed on the product label.

Domestic: Pesticide products used primarily by the general public for personal use in or around their homes. Domestic pesticide products are generally dilute pesticide formulations packaged in small containers.
Example: Dog sprays.

Commercial: Pesticides products used for commercial activities specified on the product label. Commercial pesticide products are generally concentrated pesticide formulations packaged in large containers.
Example: Agricultural pesticides.

Restricted: Pesticide products that have additional conditions specified on the product label, such as restrictions on display, distribution, use, and/or qualifications of persons that may use the product. Restrictions are placed on some pesticide products because of concerns for human health and/or the environment. Restricted pesticide products are generally concentrated pesticides formulations packaged in large containers.
Example: Bear Sprays.

Pesticide Labels

Pesticides are to be used only as directed by the product label. **Any use not prescribed on the label is illegal.**

The PCP Regulation requires the following information appear on a pesticide product label:

- Trade name
- Pesticide type (or intended use)
- Pesticide class
- Active ingredient and guarantee
- PCP registration number
- Net contents
- Precautionary symbols and words
- Name and address of registrant
- Directions for use
- Notice to user
- Nature of restriction (restricted products only)
- Precautions, disposal and first aid

Retailers should be familiar with the labels of pesticide products they sell as they may be required to advise purchasers on appropriate use, storage, disposal, etc. Retailers must know the nature of the restriction for the restricted pesticide products they sell.

It is illegal to repackage or to re-label a pesticide product. If a product label has been lost or is unreadable, a new product label should be obtained from the supplier or by using the label search function on the PMRA website (<http://www.pmr-arla.gc.ca/english/index-e.html>); select 'Label Search' from the Quick Search drop down menu).

Example of a product label:

<p style="text-align: center;">COUNTER ASSAULT BEAR DETERRENT</p> <p style="text-align: center;">PEPPER SPRAY NOT FOR USE ON HUMANS RESTRICTED</p> <p style="text-align: center;">READ THE LABEL BEFORE USING REGISTRATION NO. 22137 PEST CONTROL PRODUCTS ACT</p> <p style="text-align: center;">GUARANTEE CAPSAICIN 1.0%</p> <p style="text-align: center;">PRESSURIZED PRODUCT</p> <p style="text-align: center;">CAUTION: EXPLOSIVE FLAMMABLE IRRITANT</p> <p style="text-align: center;">NET CONTENTS: 230 GRAMS</p> <p style="text-align: center;">BBSC dba COUNTER ASSAULT 120 Industrial Court Kalispell, MT 59901 www.counterassault.com 406-257-4740</p> <p style="text-align: center;">CHEMICAL EMERGENCY 1-800-535-5053 MANUFACTURER 1-800-695-3394</p> <p>NOTICE TO USER: This control product is to be used only in accordance with the directions on this label. It is an offense under the <i>Pest Control Products Act</i> to use a control product under unsafe conditions.</p> <p>NATURE OF RESTRICTION: For use by authorized customers when the vendor maintains a record of sales, including the name and address of the purchaser, amount purchased together with a signed notice by the purchaser.</p> <p>RESTRICTED USES: For use against aggressive bears only, not to be used against domestic animals or humans.</p> <p>DIRECTIONS FOR USE: To Arm and Apply: Remove yellow plastic cable tie after purchase. Place forefinger through hole in handle with thumb on safety clip curl. With thumb, pull safety clip straight back and off. Depress black actuator tab for burst of spray. Aim at face and eyes of aggressive bears. Press Trigger using short bursts. To Disarm: Replace safety clip by pushing firmly with thumb until audible "snap" is heard. Check to see if safety is completely in place. No gap should be visible between actuator handle and safety clip. Inert canisters may be purchased for test-firings and to experience the distance and width of the spray. If COUNTER ASSAULT is test-fired, clean nozzle and bottle with soap and water to remove residual scent from can. Do not test-fire in areas inhabited by bears. This test could prove invaluable in actual use. Range 4 to 9 meters. Canister empties in approximately 7 seconds/10 blasts.</p> <p>PRECAUTIONS: KEEP OUT OF REACH OF CHILDREN. Capsicum sprays have proven effective in deterring bears approaching closely. Use only as a last resort. Capsaicin sprays will not repel bears from treated objects or areas. Do not spray objects (e.g., tents, clothing) or areas with this product. This product is for spraying the face of aggressive bears only and is not to be used against domestic animals or human beings. There is no guaranteed method of responding to a bear encounter, each encounter is unique. Strict attention to the advice of wildlife professionals on safety is advised. Severe irritation to nose, respiratory and skin areas can occur. Wash hands before touching eyes or face and prior to using the washroom. Use outside only. Persons with respiratory problems or wearing contact lenses should not use this product. WHEN TRAVELING DO NOT STORE IN PASSENGER COMPARTMENT. Contact air carriers for regulations concerning air transport. Be careful not to puncture canister and do not expose to temperatures above 50°C. Do not store in temperatures below 0°C. DO NOT INCINERATE.</p> <p>DISPOSAL: When container is empty, press valve to release all pressure. Dispose of empty container in accordance with Provincial requirements. For information on disposal of unused, unwanted product, contact the MANUFACTURER OR THE PROVINCIAL REGULATORY AGENCY.</p> <p>FIRST AID: If contact occurs with skin, nose or eyes, remove contact lenses, and flush thoroughly with water. DO NOT RUB. Symptoms usually disappear within one hour, however if symptoms persist obtain medical attention or contact a Poison Control Center immediately. Take container, label or product name and Pest Control Product Registration Number with you when seeking medical attention.</p> <p>TOXICOLOGICAL INFORMATION: Treat symptomatically.</p>
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Regulation of Sales of Capsaicin Containing Animal Spray in Manitoba

The PCP Act regulates the **use** of pesticides in Canada. Provinces are responsible for regulating the **sale** of pesticides.

Manitoba Agriculture is responsible for regulating retail sales of pesticides in Manitoba through The Pesticides and Fertilizers Control Act and its regulations.

Retail sale is defined by the Act as the sale of a pesticide to an end user. Pesticide retailers are required to be licensed and comply with licence requirements as outlined by the Act and the Pesticides and Fertilizers Licence Regulation.

Retailers do not need a licence to sell the following products because they are exempt from the Pesticides and Fertilizers Licence Regulation:

- Fertilizers
- Most domestic pesticides
- Products used primarily as antimicrobial, bactericide, wood preservative, feed preservative, pruning paint, fabric protectant, slime control agent, and animal repellents – except those that contain capsaicin.

Amendments to the Pesticides and Fertilizers Licence Regulation in 2009 removed the exemption from animal repellents that contain capsaicin (i.e., capsaicin containing animal sprays), including both the restricted (bear spray) and domestic (dog spray) products.

On April 13, 2023 further amendments were created for retailers of restricted animal repellants (bear spray).

How does this affect retailers that sell capsaicin containing animal sprays?

Since capsaicin containing animal sprays including bear sprays are no longer exempt from the regulation, retail businesses that sell these products are required to comply with the Act and Regulation as it applies to pesticide retailers. Retail businesses are to appoint a responsible individual who **must read** the Pesticides and Fertilizers Control Act, and the Pesticides and Fertilizers Licence Regulation and amendments. The responsible individual also must ensure that all staff are aware of and comply with the regulations. A summary of the regulatory requirements for retailers is outlined below:

- ✓ **Retail businesses that sell capsaicin containing animal spray must have a valid Pesticide Dealers Licence, issued from Manitoba Agriculture, as of January 1, 2009.** (Section 2(1) in the Act).

Conditions of a Pesticide Licence (Sections 2(1) to 2(4) of the Regulation and Sections 3(1) and 3(2) of the 2009 amendment):

- Licences are valid from their date of issue to December 31 of that same year. Licences must be renewed annually at a cost of \$100 per licence.
 - Licences are issued to the retail business. The name of the individual responsible for the licence, on behalf of the business, also appears on the licence.
 - Licences are to be prominently displayed in the retail outlet. If a business has more than one retail outlet, each location must have its own licence.
 - Retail businesses are to notify Manitoba Agriculture if there is a change in appointment of the responsible individual. If such a change occurs while the licence is valid, a licence bearing the new individuals name will be issued at no cost.
- ✓ **Retailers may not display, shelve or store capsaicin containing animal sprays in areas accessible to the public. Every person wishing to purchase capsaicin containing animal spray must ask for the product from the licence holder or from an employee of the licence holder.** (Section 7 in the amendment).

Capsaicin containing animal sprays must be kept in a secure place not accessible to the public, such as a store room or behind a counter. It is not required that capsaicin containing animal sprays be kept under lock and key. However, a display cabinet on the floor, even if it is locked, is not acceptable.

- ✓ **Retailers must keep a record of sales and declaration forms for sales of restricted products.** (Sections 6(1) to 6(3) in the Regulation, and Section 8 of the amendment).

Documentation is only required for sales of restricted capsaicin containing animal sprays (bear sprays). It is not required for sales of domestic capsaicin containing animal sprays but Manitoba Agriculture strongly recommends keeping similar records of sales for these products as well.

Retailers must keep track of sales of bear spray using Form 3 in the Pesticides and Fertilizers Licence Regulation. Required sales information includes:

- Trade name and formulation of the product (e.g., Product A, 1% capsaicin)
- Quantity sold
- Name and address of supplier

Retailers also must ensure that persons purchasing bear sprays read, complete, and sign a Declaration for Restricted Pesticides Containing Capsaicin – Form 7 (updated) in the Pesticides and Fertilizers Licence Regulation and provide government-issued photo identification to the vendor) in accordance with the amended Pesticides and Fertilizers Licence Regulation section 6 (2b), effective April 13, 2023. Retailers are required to verify a purchaser's identification against government-issued identification and sign Form 7. In addition, retailers must also record the serial numbers on Form 7.

There is no age restriction for persons wishing to purchase bear sprays. The Declaration form does not require the person buying bear spray to show proof of age. Many retail businesses already implement their own age restrictions on sales of capsaicin containing animal sprays and require purchasers to show proof of age or person, as policy. Manitoba Agriculture supports and encourages such policies **as long as they do not conflict with the Regulation.**

Copies of both the signed Record of Sales and Declaration for Restricted Pesticides Containing Capsaicin forms are to be sent to Manitoba Agriculture on or before October 31, for the period October 1 to September 30 or on the request of the Minister (section 6(3)b) of the amended Pesticides and Fertilizers Licence Regulation). Forms are to be submitted each year to:

Manitoba Agriculture
Pesticide Licensing
PO BOX 1149
Carman, MB R0G 0J0

FORM 7

DECLARATION FOR RESTRICTED PESTICIDES CONTAINING CAPSAICIN

IMPORTANT: Bear repellent and similar restricted products that contain capsaicin are registered under the *Pest Control Products Act* (Canada), which requires that they be used in accordance with the instructions and restrictions set out on the product's label.

WARNING REGARDING REPELLING BEARS:

Capsaicin sprays have proven effective in repelling aggressive bears only when sprayed directly in the eyes and nose, and should be used only as a last resort. Capsaicin sprays will not repel bears from treated objects or areas, and may result in increased investigation of sites by bears. Canisters should not be test-fired in areas inhabited by bears. If a canister has been test fired, all product residue should be washed from the canister nozzle and cap with soap and water before being transported to areas inhabited by bears.

This product is sold without warranty expressed or implied. No warranty or representation is made as to the ability of this product to protect the user from injury or death. The user assumes all risk when confronted by a bear. Remember, there is no guaranteed method of responding to a bear attack; each encounter is unique.

PURCHASER INFORMATION AND DECLARATION:

Name: _____
Address: _____
City, Province, Postal Code: _____
Phone Number: _____
Product and Quantity Purchased: _____
Serial Number(s) of Product(s) Purchased: _____

I have read and understood the terms and conditions for the purchase and use of this product as printed on the product's label.

I undertake to use this product strictly in accordance with the instructions and restrictions set out on the product's label.

PURCHASER'S SIGNATURE: _____ DATE: _____

VENDOR INFORMATION AND DECLARATION:

VENDOR'S NAME: _____

I affirm that before selling the restricted pesticide to the purchaser identified above, I examined the purchaser's government-issued photo identification and verified that the purchaser's information above matches the identification provided.

VENDOR'S SIGNATURE: _____ DATE: _____

FORMULE 7

DÉCLARATION CONCERNANT LES PRODUITS ANTIPARASITAIRES RESTREINTS
CONTENANT DE LA CAPSICINE

IMPORTANT : Les répulsifs à ours et les produits restreints similaires qui contiennent de la capsicine sont homologués en vertu de la *Loi sur les produits antiparasitaires* (Canada). En vertu de cette loi, ces produits doivent être utilisés conformément aux directives et aux restrictions figurant sur leur étiquette.

AVERTISSEMENT SUR LA RÉPULSION DES OURS :

La capsicine s'est avérée efficace pour repousser les ours agressifs uniquement lorsqu'elle est vaporisée directement dans les yeux et sur le museau de l'animal et ne devrait être utilisée qu'en dernier recours. La vaporisation du produit sur des objets ou dans des endroits ne permettra pas de repousser les ours et pourrait même les attirer. Ne pas faire de tirs d'essai dans des endroits où se trouvent des ours. Si un pulvérisateur a fait l'objet d'un tir d'essai, bien nettoyer à l'eau et au savon les résidus se trouvant sur la buse et le capuchon avant de transporter le pulvérisateur à un endroit où il y a des ours.

La vente de ce produit ne comporte aucune garantie explicite ou implicite. Aucune déclaration n'est faite et aucune garantie n'est offerte quant à l'efficacité du produit. L'utilisateur fait face à un ours à ses propres risques. Il n'y a aucune méthode sûre pour contrer l'attaque d'un ours : chaque cas est unique.

RENSEIGNEMENTS ET DÉCLARATION DE L'ACHETEUR :

Nom : _____
Adresse : _____
Ville, province, code postal : _____
Numéro de téléphone : _____
Produit et quantité achetés : _____
Numéro de série de chaque produit acheté : _____

J'ai lu et compris les conditions d'achat et d'utilisation de ce produit, tel qu'il est indiqué sur son étiquette.

Je m'engage à ne l'utiliser que conformément aux directives et restrictions figurant sur l'étiquette.

SIGNATURE DE L'ACHETEUR : _____ DATE : _____

RENSEIGNEMENTS ET DÉCLARATION DU VENDEUR :

NOM DU VENDEUR : _____

J'affirme qu'avant de vendre le produit antiparasitaire restreint à l'acheteur nommé ci-dessus, j'ai examiné sa carte-photo d'identité délivrée par le gouvernement et j'ai vérifié que les renseignements le concernant indiqués ci-dessus correspondent aux renseignements indiqués sur sa carte-photo d'identité.

SIGNATURE DU VENDEUR : _____ DATE : _____

Enforcement

Enforcement of the Act and Regulation are a joint effort by Manitoba Agriculture and Manitoba Environment and Climate. Staff with these departments, or with the PMRA, may stop by businesses occasionally to check for compliance.

Failure to comply with licence requirements may result in licence suspension and/or fines (\$247 for individuals, \$2107 for corporations).

Police Services can also carry out compliance checks and issue tickets to retailers that are in violation of the Act and Regulation. Police may stop by businesses on occasion.

Applying for a Pesticide Dealer Licence

Pesticide licences are issued by Manitoba Agriculture. An application form for a Pesticide Dealer Licence is included with this package. Forms are also available on the Manitoba Agriculture website, <http://www.gov.mb.ca/agriculture/permits-and-licences/pesticide-and-manure/index.html>, or can be requested by calling (204) 745-5660.

Applying for a Licence

Both the names of the retail business and the responsible individual appear on the licence. The responsible individual is to complete the following steps when applying for a Pesticide Dealer Licence:

1. Complete and sign the Declaration form.

To be eligible for a Pesticide Dealer Licence to sell capsaicin containing animal sprays, the responsible individual must read:

- The Pesticides and Fertilizers Control Act,
- The Pesticides and Fertilizers Licence Regulation and the amendment to the regulation,
- Regulation of Sales of Capsaicin Containing Animal Spray in Manitoba – Information for Retailers.

The responsible individual must complete and sign the Declaration form (page 10) acknowledging that they've read and understood the information in the package, including the Act and amended Regulation. It is their responsibility to pass this information on to the other staff.

2. Complete and sign the Pesticide Dealer Application form.

On the application form, 'company' refers to the retail business and 'applicant' refers to the responsible individual. Select the 'Other: Animal Repellent' category of licence and indicate the products sold by the retail business (i.e., dog spray, bear spray, or both). The responsible individual is to sign the application on behalf of the retailer.

3. Prepare a cheque for \$100.00 payable to the Minister of Finance.

4. Mail the application and cheque to:

Manitoba Agriculture
Pesticide Licensing
PO BOX 1149
Carman, MB R0G 0J0

Applicants that have questions about licensing or licence applications may call (204) 324-2804.

Declaration

The Pesticides and Fertilizers Licence Regulation, under the *Pesticides and Fertilizers Control Act*, has been amended to include capsaicin containing animal sprays and additional reporting requirements including verification of identification of the buyer. As of April 13, 2023, retail businesses that sell capsaicin containing animal sprays are required to have a Pesticide Dealer Licence and comply with the amended licence conditions.

As a retailer that sells pepper sprays, I, _____,
(responsible individual)

acknowledge that I have read and understood the *Pesticides and Fertilizers Control Act* and the Pesticides and Fertilizers Licence Regulation.

Responsible Individual:

(Name; please print)

(Signature)

(Date)

Witness:

(Name; please print)

(Signature)

(Date)

