

1 [Urging the State of California to repeal local preemption regarding pesticides.]

2
3 **Resolution urging the State of California to repeal the local preemption ban which**
4 **prohibits local jurisdictions from banning pesticides throughout their city and county**
5 **limits.**

6
7 WHEREAS, In 1979 Mendocino County sought to ban the use of aerial spraying of
8 herbicides within its borders due to the fact that pesticide drift caused toxic chemicals to drift
9 onto local school buses; and,

10 WHEREAS, In 1984 the State of California adopted a law that preempts local
11 governments from restricting the sale or use pesticides; and,

12 WHEREAS, In 1991, the U.S. Supreme Court ruled that, absent state law to the
13 contrary, federal pesticide law does not preempt local regulations dealing with the use of
14 pesticides (*Wisconsin Public Intervenor v. Ralph Mortier*), and,

15 WHEREAS, In that case, the U.S. Supreme Court ruled that the Federal Insecticide
16 Fungicide Rodenticide Act (FIFRA) leaves local regulation of pesticides in the hands of local
17 authorities under existing state laws; and,

18 WHEREAS, California law prohibits local ordinances thus making the aforementioned
19 1991 U.S. Supreme Court decision irrelevant in California; and,

20 WHEREAS, San Francisco has a long history of adopting laws to protect the health of
21 its residents and natural environment by restricting the use of toxic pesticide on city-owned
22 property including the Integrated Pest Management Ordinance (1996) and the Arsenic
23 Treated Wood Ordinance; and,

24 WHEREAS, San Francisco adopted the Precautionary Principle in 2003 which calls for
25 a commitment to protect public health and the environment through the adoption of laws and

1 policies that limit exposure to toxic chemicals potentially beyond those that are used directly
2 by city agencies; and,

3 WHEREAS, San Francisco used its power to protect the public health of its residents
4 by restricting the sale of consumer products containing toxic chemicals including the Mercury
5 Thermometer Ban (2000) and the Healthy Products Healthy Children Ordinance (2003) which
6 banned the sale of toys and children's products containing the class of toxic chemicals called
7 phthalates; and,

8 WHEREAS, San Francisco is unable to extend the protections it has put in place
9 regarding the use of pesticides to consumer products due to the statewide preemption; and,

10 WHEREAS, The San Francisco Board of Supervisors passed two resolutions in April
11 2008 questioning the State's aerial spraying of San Francisco against the Light Brown Apple
12 Moth, legislation rendered powerless by the statewide preemption of local government;
13 therefore be it

14 RESOLVED that the San Francisco Board of Supervisors urges the State of California
15 to repeal the local government preemption of controls on pesticides as stated in the California
16 Food and Agriculture Code Section 11501.1.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Resolution

File Number: 080874

Date Passed:

Resolution urging the State of California to repeal the local preemption ban which prohibits local jurisdictions from banning pesticides throughout their city and county limits.

July 16, 2008 Board of Supervisors — ADOPTED

Ayes: 10 - Alioto-Pier, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Peskin, Sandoval
Absent: 1 - Ammiano

File No. 080874

I hereby certify that the foregoing Resolution was ADOPTED on July 16, 2008 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

7.21.08

Date Approved

Mayor Gavin Newsom