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HOUSE BILL 2705

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State of Washington

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By Representatives Pruitt, Rust, Valle, Brekke and J. Kohl

Read first time 01/24/92. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to household toxic substances; amending RCW  
2 15.58.040; adding new sections to chapter 43.70 RCW; adding new  
3 sections to chapter 17.21 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The purpose of this chapter is to  
6 protect the public health and welfare by establishing a means of  
7 detecting and preventing human exposure to lead and improving  
8 understanding of the safe use, handling and disposal of home and garden  
9 pesticides.

10 NEW SECTION. **Sec. 2.** (1) Any attending physician or other  
11 health care provider recognized as primarily responsible for the  
12 diagnosis and treatment of a patient or, in the absence of a primary  
13 health care provider, the health care provider initiating diagnostic

1 testing or therapy for a patient shall report a case or suspected case  
2 of lead poisoning to the department in the manner prescribed by, and  
3 within the reasonable time periods established by, rules of the state  
4 board of health. Time periods established by the board shall range  
5 from immediate reporting to reporting within seven days depending on  
6 the severity of the case or suspected case of lead poisoning. The  
7 reporting requirements shall be patterned after other board rules  
8 establishing requirements for reporting of diseases or conditions.  
9 Confidentiality requirements shall be the same as the confidentiality  
10 requirements established for other reportable diseases or conditions.  
11 The board rules shall determine what information shall be reported.  
12 Reports shall be made on forms provided to health care providers by the  
13 department. For purposes of any oral reporting, the department shall  
14 make available a toll-free telephone number.

15 (2) Any failure of the primary health care provider to make the  
16 reports required under this section may be cause for the department to  
17 submit information about such nonreporting to the applicable  
18 disciplining authority for the provider under RCW 18.130.040.

19 (3) No cause of action shall arise as the result of: (a) The  
20 failure to report under this section; or (b) any report submitted to  
21 the department under this section.

22 NEW SECTION. **Sec. 3.** (1) The department shall develop rules  
23 for analysis of lead in blood and in environmental media, including but  
24 not limited to lead in dust, soil, paint, and water. Such rules shall  
25 include, but not be limited to, provisions establishing a mandatory  
26 quality assurance and control program.

27 (2) The department shall certify laboratories performing lead  
28 analyses to ensure that laboratories comply with such rules for  
29 analysis of lead in blood and in environmental media. The department

1 shall by rule develop a certification process for laboratories  
2 performing lead analysis.

3       **Sec. 4.** RCW 15.58.040 and 1991 c 264 s 2 are each amended to read  
4 as follows:

5       (1) The director shall administer and enforce the provisions of  
6 this chapter and rules adopted under this chapter. All the authority  
7 and requirements provided for in chapter 34.05 RCW (Administrative  
8 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the  
9 adoption of rules including those requiring due notice and a hearing  
10 for the adoption of permanent rules.

11       (2) The director is authorized to adopt appropriate rules for  
12 carrying out the purpose and provisions of this chapter, including but  
13 not limited to rules providing for:

14       (a) Declaring as a pest any form of plant or animal life or virus  
15 which is injurious to plants, people, animals (domestic or otherwise),  
16 land, articles, or substances;

17       (b) Determining that certain pesticides are highly toxic to people.  
18 For the purpose of this chapter, highly toxic pesticide means any  
19 pesticide that conforms to the criteria in 40 C.F.R. Sec. 162.10 for  
20 toxicity category I due to oral, inhalation, or dermal toxicity. The  
21 director shall publish a list of all pesticides, determined to be  
22 highly toxic, by their common or generic name and their trade or brand  
23 name if practical. Such list shall be kept current and shall ~~((, upon~~  
24 ~~request,))~~ be made available to ~~((any interested party))~~ the public;

25       (c) Determining standards for denaturing pesticides by color,  
26 taste, odor, or form;

27       (d) The collection and examination of samples of pesticides or  
28 devices;

1 (e) The safe handling, transportation, storage, display,  
2 distribution, and disposal of pesticides and their containers;

3 (f) Restricting or prohibiting the use of certain types of  
4 containers or packages for specific pesticides. These restrictions may  
5 apply to type of construction, strength, and/or size to alleviate  
6 danger of spillage, breakage, misuse, storage, or any other hazard to  
7 the public. The director shall be guided by federal regulations  
8 concerning pesticide containers;

9 (g) Procedures in making of pesticide recommendations;

10 (h) Adopting a list of restricted use pesticides for the state or  
11 for designated areas within the state if the director determines that  
12 such pesticides may require rules restricting or prohibiting their  
13 distribution or use. The director may include in the rule the time and  
14 conditions of distribution or use of such restricted use pesticides and  
15 may, if it is found necessary to carry out the purpose and provisions  
16 of this chapter, require that any or all restricted use pesticides  
17 shall be purchased, possessed, or used only under permit of the  
18 director and under the director's direct supervision in certain areas  
19 and/or under certain conditions or in certain quantities or  
20 concentrations. The director may require all persons issued such  
21 permits to maintain records as to the use of all the restricted use  
22 pesticides;

23 (i) Label requirements of all pesticides required to be registered  
24 under provisions of this chapter;

25 (j) Regulating the labeling of devices; (~~and~~)

26 (k) The establishment of criteria governing the conduct of a  
27 structural pest control inspection; and

28 (l) Public notice, including warning signs and informational  
29 materials, for public distribution at retail sales outlets where  
30 pesticides are sold for home and garden use.

1 (3) For the purpose of uniformity and to avoid confusion  
2 endangering the public health and welfare the director may adopt rules  
3 in conformity with the primary pesticide standards, particularly as to  
4 labeling, established by the United States environmental protection  
5 agency or any other federal agency.

6 NEW SECTION. **Sec. 5.** The director, by rule, shall prohibit  
7 the sale in this state of pesticides labeled and intended for home and  
8 garden use that require mixing or dilution. The director shall ensure  
9 that home and garden pesticides are sold in the form in which they will  
10 be applied and that they are sold in quantities that reduce waste and  
11 disposal problems.

12 NEW SECTION. **Sec. 6.** (1) It is unlawful for any person to  
13 sell or advertise for sale pesticides labeled and intended for home and  
14 garden use without first having obtained an annual dealer outlet  
15 license from the director. The dealer outlet license shall expire on  
16 the master license expiration date. A dealer outlet license is  
17 required for each location or outlet located within this state from  
18 which home and garden pesticides are distributed. A manufacturer,  
19 registrant, or distributor who has no home and garden pesticide dealer  
20 outlet licensed within this state and who distributes such pesticides  
21 directly into this state shall obtain a pesticide dealer license for  
22 his or her principal out-of-state location or outlet, but such licensed  
23 out-of-state pesticide dealer is exempt from the home and garden  
24 pesticide dealer manager requirements.

25 (2) Application for a dealer outlet license shall be accompanied by  
26 a thirty-dollar annual license fee and shall be made through the master  
27 license system and shall include the full name of the person applying  
28 for the license and the name of the individual within the state

1 designated as the home and garden pesticide dealer manager. If the  
2 applicant is a partnership, association, corporation, or organized  
3 group of persons, the full name of each member of the firm or  
4 partnership or the names of the officers of the association or  
5 corporation shall be given on the application. The application shall  
6 further state the principal business address of the applicant in the  
7 state and elsewhere, the name of a person domiciled in this state  
8 authorized to receive and accept service of summons of legal notices of  
9 all kinds for the applicant, and any other necessary information  
10 prescribed by the director.

11 (3) It is unlawful for any licensed dealer outlet to operate  
12 without a person who holds a license as a home and garden pesticide  
13 dealer manager on the premises when the outlet is open to the public.  
14 The department shall be notified of any change in the home and garden  
15 pesticide dealer manager designee during the licensing period.

16 NEW SECTION. **Sec. 7.** The director shall require each holder  
17 of a home and garden pesticide dealer manager license to demonstrate to  
18 the director knowledge of pesticide laws and rules; pesticide hazards;  
19 and safe disposal techniques by satisfactorily passing a written  
20 examination after which the director shall issue a license of  
21 qualification. Application for a license shall be accompanied by a  
22 license fee of fifty dollars. The pesticide dealer manager license  
23 shall be a five-year license expiring on a date set by rule by the  
24 director. License fees shall be prorated where necessary to  
25 accommodate staggering of expiration dates of a license or licenses.

26 NEW SECTION. **Sec. 8.** There is created an account within the  
27 state treasury to be known as the home and garden pesticide education  
28 account. All fees collected or received under sections 6 and 7 of this

1 act shall be deposited in the home and garden pesticide education  
2 account and used by the department of ecology in providing grants to  
3 local governments and nonprofit organizations. The grants may be used  
4 to implement the pesticide-related portion of a county's moderate-risk  
5 waste program or to provide public information and education regarding  
6 ways to reduce or eliminate the use of home and garden pesticides or  
7 ways to safely handle, store, and dispose of home and garden  
8 pesticides. The department of agriculture shall deduct fifteen percent  
9 from funds collected pursuant to sections 6 and 7 of this act for the  
10 purpose of administering and collecting the permit fees.

11 NEW SECTION. **Sec. 9.** (1) If a pesticide is applied to public  
12 and private school grounds, day care centers, public recreation areas,  
13 or residential property by a certified applicator, the pesticide-  
14 treated area shall be posted with warning signs provided by the  
15 applicator in accordance with the requirements of this section.

16 (2) When signs are required under this section, the certified  
17 applicator must post signs visible from all usual points of entry to  
18 the pesticide-treated area. If there are no usual points of entry or  
19 the area is adjacent to an unfenced public right of way, signs must be  
20 posted (a) at each corner of the pesticide-treated area, and (b) at  
21 intervals not exceeding one hundred feet, or (c) at other locations  
22 approved by the department that provide maximum visibility.

23 (3) The signs must be posted during application and for at least  
24 the following forty-eight hours. The owner or occupant of the property  
25 is responsible for the disposition of the signs after the posting  
26 period.

27 (4) Signs must be legible for the duration of use. Signs shall  
28 contain a prominent symbol approved by the department by rule, and  
29 wording shall be in English and other appropriate languages as

1 determined by the department. Signs shall meet the minimum  
2 specifications adopted by rule by the department, which shall include,  
3 at a minimum, the following requirements:

4 (a) Signs must be at least eighteen by twelve inches in size;

5 (b) Signs must include lettering covering at least seventy percent  
6 of the area of the sign containing the words "NOTICE!--Area sprayed"  
7 and information identifying the applicator, including address and  
8 telephone number where additional information can be obtained. In  
9 addition, at least one sign shall have attached an original-sized copy  
10 of the record kept under RCW 17.21.100;

11 (c) The date of application must be indicated on the signs.

12 NEW SECTION. **Sec. 10.** (1) Prior to a pesticide application on  
13 public or private school grounds, day care centers, public recreation  
14 areas, or residential property, the certified applicator must provide  
15 in writing, as part of the contract to the owner of the property or his  
16 or her agent, the following:

17 (a) The approximate date or dates of application;

18 (b) The number of applications and quantity;

19 (c) A list of substances to be applied, including brand names and  
20 generic names of active ingredients;

21 (d) The company name, address, telephone number, and the state-  
22 certified applicator's license number.

23 (2) If the application date or dates specified become infeasible,  
24 the applicator must give the owner or his or her agent oral or written  
25 notice of the proposed alternative date or dates. The owner or his or  
26 her agent must approve the alternative date or dates before the  
27 pesticide is applied.

28 (3) Whenever a highly toxic pesticide is applied, the certified  
29 applicator shall provide written notice, at least twenty-four hours

1 prior to spraying, to all occupants of properties abutting the sprayed  
2 property. The notice shall include the name of the pesticide or  
3 pesticides applied, the estimated time and date of application, the  
4 address of the application, and a telephone number that can be used to  
5 acquire additional information.

6 NEW SECTION. **Sec. 11.** Sections 1 through 3 of this act are  
7 each added to chapter 43.70 RCW.

8 NEW SECTION. **Sec. 12.** Sections 5 through 9 of the act are each  
9 added to chapter 17.21 RCW.