CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5317**

67th Legislature

2021 Regular Session

|  |  |
| --- | --- |
| Passed by the Senate April 22, 2021Yeas 30 Nays 19**President of the Senate**Passed by the House April 21, 2021Yeas 79 Nays 18**Speaker of the House of Representatives** | CERTIFICATEI, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5317** as passed by the Senate and the House of Representatives on the dates hereon set forth.Secretary |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5317**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senator Warnick; by request of Department of Agriculture)

AN ACT Relating to pesticide registration and pesticide licensing fees; amending RCW 15.58.070, 15.58.180, 15.58.200, 15.58.205, 15.58.210, 15.58.220, 15.58.411, 17.21.070, 17.21.110, 17.21.122, 17.21.126, 17.21.129, 17.21.220, and 17.21.280; creating a new section; and providing an effective date.

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

**Sec.**  RCW 15.58.070 and 2008 c 285 s 15 are each amended to read as follows:

(1) All registrations issued by the department expire December 31st of the following year except that registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31st of that year.

(2) An application for registration must be accompanied by a fee of ((~~three~~)) six hundred ((~~ninety~~)) fifty dollars for each pesticide, except that a registrant who is applying to register an additional pesticide during the year the registrant's registration expires shall pay a fee of ((~~one~~)) three hundred ((~~ninety-five~~)) twenty-five dollars for each additional pesticide.

(3) Fees must be deposited in the agricultural local fund to support the activities of the pesticide program within the department.

(4) Any registration approved by the director and in effect on the last day of the registration period, for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

(5) The department must complete and post on its website a timeline for processing completed pesticide registrations.

**Sec.**  RCW 15.58.180 and 2013 c 144 s 10 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license expires on the business license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state must obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such a licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license must be accompanied by a fee of ((~~sixty-seven~~)) eighty-eight dollars and must be made through the business licensing system and must include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation must be given on the application. The application must state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification.

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when pesticides are dispensed only through apparatuses used for pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter ((~~70.105~~)) 70A.300 RCW.

**Sec.**  RCW 15.58.200 and 2008 c 285 s 17 are each amended to read as follows:

The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license must be accompanied by a fee of ((~~thirty-three~~)) thirty-eight dollars. The pesticide dealer manager license expires annually on a date set by rule by the director.

**Sec.**  RCW 15.58.205 and 2008 c 285 s 18 are each amended to read as follows:

(1) No individual may perform services as a structural pest inspector or advertise that they perform services of a structural pest inspector without obtaining a structural pest inspector license from the director. The license expires annually on a date set by rule by the director. Application for a license must be on a form prescribed by the director and must be accompanied by a fee of ((~~sixty~~)) seventy-eight dollars.

(2) The following are exempt from the application fee requirement of this section when acting within the authorities of their existing licenses issued under this chapter or chapter 17.21 RCW: Licensed pest control consultants; licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators.

(3) The following are exempt from the structural pest inspector licensing requirement: Individuals inspecting for damage caused by wood destroying organisms if the inspections are solely for the purpose of: (a) Repairing or making specific recommendations for the repair of the damage, or (b) assessing a monetary value for the structure inspected. Individuals performing wood destroying organism inspections that incorporate but are not limited to the activities described in (a) or (b) of this subsection are not exempt from the structural pest inspector licensing requirement.

(4) A structural pest inspector license is not valid for conducting a complete wood destroying organism inspection unless the inspector owns or is employed by a business with a structural pest inspection company license.

**Sec.**  RCW 15.58.210 and 2008 c 285 s 19 are each amended to read as follows:

(1) No individual may perform services as a pest control consultant without obtaining a license from the director. The license expires annually on a date set by rule by the director. Application for a license must be on a form prescribed by the director and must be accompanied by a fee of ((~~sixty~~)) sixty-eight dollars.

(2) The following are exempt from the licensing requirements of this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet.

**Sec.**  RCW 15.58.220 and 2008 c 285 s 20 are each amended to read as follows:

For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant. No person may act as a public pest control consultant without first obtaining a license from the director. The license expires annually on a date set by rule by the director. Application for a license must be on a form prescribed by the director and must be accompanied by a fee of ((~~thirty-three~~)) forty-three dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

**Sec.**  RCW 15.58.411 and 1997 c 242 s 8 are each amended to read as follows:

((~~All~~)) (1) Except as otherwise provided for in this section, all license fees collected under this chapter shall be paid to the director for use exclusively in the enforcement of this chapter.

(2) In addition to any other fees the department may collect under this chapter, the department shall collect a fee of seven dollars for each license issued by the department under this chapter. The department shall transmit the seven dollar fee required by this subsection to Washington State University for the purpose of providing a pesticide safety education program to educate and train pesticide licensees and prospective licensees.

(3) The department shall engage with the regulated community on the status of license fees established in this chapter, including consideration of future increases, in coordination with a stakeholder work group.

(4) All moneys collected for civil penalties levied under this chapter shall be deposited in the state general fund.

**Sec.**  RCW 17.21.070 and 2008 c 285 s 21 are each amended to read as follows:

It is unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for a commercial applicator license must be accompanied by a fee of two hundred ((~~fifteen~~)) forty-three dollars and in addition a fee of twenty-seven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides.

**Sec.**  RCW 17.21.110 and 2008 c 285 s 22 are each amended to read as follows:

It is unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license is in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license must be accompanied by a fee of ((~~sixty-seven~~)) seventy-eight dollars. This section does not apply to any individual who is a licensed commercial pesticide applicator.

**Sec.**  RCW 17.21.122 and 2008 c 285 s 23 are each amended to read as follows:

It is unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license must be accompanied by a fee of ((~~thirty-three~~)) thirty-eight dollars.

**Sec.**  RCW 17.21.126 and 2008 c 285 s 24 are each amended to read as follows:

It is unlawful for any person to act as a private applicator, limited private applicator, or rancher private applicator without first complying with requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the pesticide applicator or other persons, for each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private applicator, limited private applicator, or rancher private applicator is certified must be relative to hazards of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director must take into consideration standards of the EPA and is authorized to adopt these standards by rule.

(2) Application for a private applicator ((~~or a limited private applicator~~)) license must be accompanied by a fee of ((~~thirty-three~~)) thirty-eight dollars. Application for a limited private applicator license must be accompanied by a fee of thirty-three dollars. Application for a rancher private applicator license must be accompanied by a fee of one hundred three dollars. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate statewide or agricultural license categories are exempt from the private applicator, limited private applicator, or rancher private applicator fee requirements. However, licensed public pesticide operators, otherwise exempted from the public pesticide operator license fee requirement, are not also exempted from the fee requirements under this subsection.

**Sec.**  RCW 17.21.129 and 2008 c 285 s 25 are each amended to read as follows:

Except as provided in RCW 17.21.203, it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide on small experimental plots for research purposes when no charge is made for the pesticide and its application without a demonstration and research applicator's license.

(1) Application for a demonstration and research license must be accompanied by a fee of ((~~thirty-three~~)) forty-three dollars.

(2) Persons licensed under this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

**Sec.**  RCW 17.21.220 and 2008 c 285 s 26 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agencies are subject to this chapter and its rules.

(2) It is unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. Application for a public operator license must be accompanied by a fee of ((~~thirty-three~~)) forty-three dollars. The fee does not apply to public operators licensed and working in the health vector field. The public operator license is valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted use pesticides to control pests other than weeds.

(4) Agencies, municipal corporations, and public utilities are subject to legal recourse by any person damaged by such application of any pesticide, and action may be brought in the county where the damage or some part of the damage occurred.

**Sec.**  RCW 17.21.280 and 1997 c 242 s 18 are each amended to read as follows:

(1) Except as provided in subsections (2) and (4) of this section, all moneys collected under the provisions of this chapter shall be paid to the director and deposited in the agricultural local fund, RCW 43.23.230, for use exclusively in the enforcement of this chapter.

(2) In addition to any other fees the department may collect under this chapter, the department shall collect a fee of seven dollars for each license issued by the department under this chapter. The department shall transmit the seven dollar fee required by this subsection to Washington State University for the purpose of providing a pesticide safety education program to educate and train pesticide licensees and prospective licensees.

(3) The department shall engage with the regulated community on the status of license fees established in this chapter, including consideration of future increases, in coordination with a stakeholder work group.

(4) All moneys collected for civil penalties levied under RCW 17.21.315 shall be deposited in the state general fund. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW.

NEW SECTION. **Sec.**  By December 31, 2022, the department of agriculture shall report to the legislature, in accordance with RCW 43.01.036, on the status of the fee structure for pesticide licenses. At a minimum, the report must include an outlook for potential future fee needs and describe how the department of agriculture has engaged with the regulated community on the topic of pesticide license fees in coordination with a stakeholder work group.

NEW SECTION. **Sec.**  This act takes effect November 1, 2021. All new or renewal applications for licensure, certification, or registration under chapter 17.21 or 15.58 RCW received on or after the effective date of this section are subject to the provisions of this act, including all fees required by this act.

**--- END ---**