

2 **SSB 5533** - H COMM AMD

3 By Committee on Agriculture & Ecology

ADOPTED 4/20/01

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 17.21.020 and 1994 c 283 s 1 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Agricultural commodity" means any plant or part of a plant, or
12 animal, or animal product, produced by a person (including farmers,
13 ranchers, vineyardists, plant propagators, Christmas tree growers,
14 aquaculturists, floriculturists, orchardists, foresters, or other
15 comparable persons) primarily for sale, consumption, propagation, or
16 other use by people or animals.

17 (2) "Agricultural land" means land on which an agricultural
18 commodity is produced or land that is in a government-recognized
19 conservation reserve program. This definition does not apply to
20 private gardens where agricultural commodities are produced for
21 personal consumption.

22 (3) "Antimicrobial pesticide" means a pesticide that is used for
23 the control of microbial pests, including but not limited to viruses,
24 bacteria, algae, and protozoa, and is intended for use as a
25 disinfectant or sanitizer.

26 (4) "Apparatus" means any type of ground, water, or aerial
27 equipment, device, or contrivance using motorized, mechanical, or
28 pressurized power and used to apply any pesticide on land and anything
29 that may be growing, habitating, or stored on or in such land, but
30 shall not include any pressurized handsized household device used to
31 apply any pesticide, or any equipment, device, or contrivance of which
32 the person who is applying the pesticide is the source of power or
33 energy in making such pesticide application, or any other small
34 equipment, device, or contrivance that is transported in a piece of
35 equipment licensed under this chapter as an apparatus.

36 ((+4)) (5) "Arthropod" means any invertebrate animal that belongs
37 to the phylum arthropoda, which in addition to insects, includes allied

1 classes whose members are wingless and usually have more than six legs;
2 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

3 ~~((+5))~~ (6) "Certified applicator" means any individual who is
4 licensed as a commercial pesticide applicator, commercial pesticide
5 operator, public operator, private-commercial applicator, demonstration
6 and research applicator, or certified private applicator, or any other
7 individual who is certified by the director to use or supervise the use
8 of any pesticide which is classified by the EPA or the director as a
9 restricted use pesticide.

10 ~~((+6))~~ (7) "Commercial pesticide applicator" means any person who
11 engages in the business of applying pesticides to the land of another.

12 ~~((+7))~~ (8) "Commercial pesticide operator" means any employee of
13 a commercial pesticide applicator who uses or supervises the use of any
14 pesticide and who is required to be licensed under provisions of this
15 chapter.

16 ~~((+8))~~ (9) "Defoliant" means any substance or mixture of
17 substances intended to cause the leaves or foliage to drop from a plant
18 with or without causing abscission.

19 ~~((+9))~~ (10) "Department" means the Washington state department of
20 agriculture.

21 ~~((+10))~~ (11) "Desiccant" means any substance or mixture of
22 substances intended to artificially accelerate the drying of plant
23 tissues.

24 ~~((+11))~~ (12) "Device" means any instrument or contrivance intended
25 to trap, destroy, control, repel, or mitigate pests, but not including
26 equipment used for the application of pesticides when sold separately
27 from the pesticides.

28 ~~((+12))~~ (13) "Direct supervision" by certified private applicators
29 shall mean that the designated restricted use pesticide shall be
30 applied for purposes of producing any agricultural commodity on land
31 owned or rented by the applicator or the applicator's employer, by a
32 competent person acting under the instructions and control of a
33 certified private applicator who is available if and when needed, even
34 though such certified private applicator is not physically present at
35 the time and place the pesticide is applied. The certified private
36 applicator shall have direct management responsibility and familiarity
37 of the pesticide, manner of application, pest, and land to which the
38 pesticide is being applied. Direct supervision by all other certified
39 applicators means direct on-the-job supervision and shall require that

1 the certified applicator be physically present at the application site
2 and that the person making the application be in voice and visual
3 contact with the certified applicator at all times during the
4 application. Direct supervision of an aerial apparatus means the pilot
5 of the aircraft must be appropriately certified.

6 ~~((+13+))~~ (14) "Director" means the director of the department or a
7 duly authorized representative.

8 ~~((+14+))~~ (15) "Engage in business" means any application of
9 pesticides by any person upon lands or crops of another.

10 ~~((+15+))~~ (16) "EPA" means the United States environmental
11 protection agency.

12 ~~((+16+))~~ (17) "EPA restricted use pesticide" means any pesticide
13 classified for restricted use by the administrator, EPA.

14 ~~((+17+))~~ (18) "FIFRA" means the federal insecticide, fungicide and
15 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

16 ~~((+18+))~~ (19) "Fumigant" means any pesticide product or combination
17 of products that is a vapor or gas or forms a vapor or gas on
18 application and whose method of pesticidal action is through the
19 gaseous state.

20 ~~((+19+))~~ (20) "Fungi" means all nonchlorophyll-bearing thallophytes
21 (all nonchlorophyll-bearing plants of lower order than mosses and
22 liverworts); for example, rusts, smuts, mildews, molds, and yeasts,
23 except those on or in a living person or other animals.

24 ~~((+20+))~~ (21) "Fungicide" means any substance or mixture of
25 substances intended to prevent, destroy, repel, or mitigate any fungi.

26 ~~((+21+))~~ (22) "Herbicide" means any substance or mixture of
27 substances intended to prevent, destroy, repel, or mitigate any weed or
28 other higher plant.

29 ~~((+22+))~~ (23) "Immediate service call" means a landscape
30 application to satisfy an emergency customer request for service, or a
31 treatment to control a pest to landscape plants.

32 ~~((+23+))~~ (24) "Insect" means any small invertebrate animal, in any
33 life stage, whose adult form is segmented and which generally belongs
34 to the class insecta, comprised of six-legged, usually winged forms,
35 as, for example, beetles, bugs, bees, and flies. The term insect shall
36 also apply to other allied classes of arthropods whose members are
37 wingless and usually have more than six legs, for example, spiders,
38 mites, ticks, centipedes, and isopod crustaceans.

1 ~~((24))~~ (25) "Insecticide" means any substance or mixture of
2 substances intended to prevent, destroy, repel, or mitigate any insect.

3 ~~((25))~~ (26) "Land" means all land and water areas, including
4 airspace and all plants, animals, structures, buildings, devices, and
5 contrivances, appurtenant to or situated on, fixed or mobile, including
6 any used for transportation.

7 ~~((26))~~ (27) "Landscape application" means an application ~~((by a~~
8 ~~certified applicator))~~ of any EPA registered pesticide to any exterior
9 landscape ~~((plants found))~~ area around residential property, commercial
10 properties such as apartments or shopping centers, parks, golf courses,
11 schools including nursery schools and licensed day cares, or cemeteries
12 or similar areas. This definition shall not apply to: (a)
13 Applications made by certified private applicators; (b) mosquito
14 abatement, gypsy moth eradication, or similar wide-area pest control
15 programs sponsored by governmental entities; and (c) commercial
16 pesticide applicators making structural applications.

17 ~~((27))~~ (28) "Nematocide" means any substance or mixture of
18 substances intended to prevent, destroy, repel, or mitigate nematodes.

19 ~~((28))~~ (29) "Nematode" means any invertebrate animal of the
20 phylum nemathelminthes and class nematoda, that is, unsegmented round
21 worms with elongated, fusiform, or saclike bodies covered with cuticle,
22 and inhabiting soil, water, plants or plant parts. Nematodes may also
23 be called nemas or eelworms.

24 ~~((29))~~ (30) "Person" means any individual, partnership,
25 association, corporation, or organized group of persons whether or not
26 incorporated.

27 ~~((30))~~ (31) "Pest" means, but is not limited to, any insect,
28 rodent, nematode, snail, slug, weed, and any form of plant or animal
29 life or virus, except virus, bacteria, or other microorganisms on or in
30 a living person or other animal or in or on processed food or beverages
31 or pharmaceuticals, which is normally considered to be a pest, or which
32 the director may declare to be a pest.

33 ~~((31))~~ (32) "Pesticide" means, but is not limited to:

34 (a) Any substance or mixture of substances intended to prevent,
35 destroy, control, repel, or mitigate any pest;

36 (b) Any substance or mixture of substances intended to be used as
37 a plant regulator, defoliant or desiccant; and

38 (c) Any spray adjuvant, such as a wetting agent, spreading agent,
39 deposit builder, adhesive, emulsifying agent, deflocculating agent,

1 water modifier, or similar agent with or without toxic properties of
2 its own intended to be used with any pesticide as an aid to the
3 application or effect thereof, and sold in a package or container
4 separate from that of the pesticide with which it is to be used.

5 ~~((+32+))~~ (33) "Pesticide advisory board" means the pesticide
6 advisory board as provided for in this chapter.

7 ~~((+33+))~~ (34) "Plant regulator" means any substance or mixture of
8 substances intended through physiological action, to accelerate or
9 retard the rate of growth or maturation, or to otherwise alter the
10 behavior of ornamental or crop plants or their produce, but shall not
11 include substances insofar as they are intended to be used as plant
12 nutrients, trace elements, nutritional chemicals, plant inoculants, or
13 soil amendments.

14 ~~((+34+))~~ (35) "Private applicator" means a certified applicator who
15 uses or is in direct supervision of the use of any pesticide classified
16 by the EPA or the director as a restricted use pesticide, for the
17 purposes of producing any agricultural commodity and for any associated
18 noncrop application on land owned or rented by the applicator or the
19 applicator's employer or if applied without compensation other than
20 trading of personal services between producers of agricultural
21 commodities on the land of another person.

22 ~~((+35+))~~ (36) "Private-commercial applicator" means a certified
23 applicator who uses or supervises the use of any pesticide classified
24 by the EPA or the director as a restricted use pesticide for purposes
25 other than the production of any agricultural commodity on lands owned
26 or rented by the applicator or the applicator's employer.

27 ~~((+36+))~~ (37) "Residential property" includes property less than
28 one acre in size zoned as residential by a city, town, or county, but
29 does not include property zoned as agricultural or agricultural
30 homesites.

31 ~~((+37+))~~ (38) "Restricted use pesticide" means any pesticide or
32 device which, when used as directed or in accordance with a widespread
33 and commonly recognized practice, the director determines, subsequent
34 to a hearing, requires additional restrictions for that use to prevent
35 unreasonable adverse effects on the environment including people,
36 lands, beneficial insects, animals, crops, and wildlife, other than
37 pests.

38 ~~((+38+))~~ (39) "Rodenticide" means any substance or mixture of
39 substances intended to prevent, destroy, repel, or mitigate rodents, or

1 any other vertebrate animal which the director may declare by rule to
2 be a pest.

3 ~~((39))~~ (40) "School facility" means any facility used for
4 licensed day care center purposes or for the purposes of a public
5 kindergarten or public elementary or secondary school. School facility
6 includes the buildings or structures, playgrounds, landscape areas,
7 athletic fields, school vehicles, or any other area of school property.

8 (41) "Snails or slugs" include all harmful mollusks.

9 ~~((40))~~ (42) "Unreasonable adverse effects on the environment"
10 means any unreasonable risk to people or the environment taking into
11 account the economic, social, and environmental costs and benefits of
12 the use of any pesticide, or as otherwise determined by the director.

13 ~~((41))~~ (43) "Weed" means any plant which grows where it is not
14 wanted.

15 **Sec. 2.** RCW 17.21.410 and 1994 c 283 s 33 are each amended to read
16 as follows:

17 (1) A certified applicator making a landscape application to:

18 (a) Residential property shall at the time of the application place
19 a marker at the usual point of entry to the property. If the
20 application is made to an isolated spot that is not a substantial
21 portion of the property, the applicator shall only be required to place
22 a marker at the application site. If the application is in a fenced or
23 otherwise isolated backyard, no marker is required.

24 (b) Commercial properties such as apartments or shopping centers
25 shall at the time of application place a marker in a conspicuous
26 location at or near each site being treated.

27 (c) A golf course shall at the time of the application place a
28 marker at the first tee and tenth tee or post the information in a
29 conspicuous location such as on a central message board.

30 (d) A school, nursery school, or licensed day care shall at the
31 time of the application place a marker at each primary point of entry
32 to the school grounds. A school employee making an application to a
33 school facility shall comply with the posting requirements in section
34 3 of this act.

35 (e) A park, cemetery, rest stop, or similar property as may be
36 defined in rule shall at the time of the application place a marker at
37 each primary point of entry.

1 (2) An individual making a landscape application to a school
2 grounds, nursery school, or licensed day care, and not otherwise
3 covered by subsection (1) of this section, shall ~~((be required to
4 comply with the posting requirements in subsection (1)(d) of this
5 section))~~ at the time of the application place a marker at each primary
6 point of entry to the school grounds.

7 (3) The marker shall be a minimum of four inches by five inches.
8 It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the
9 headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger
10 size requirements for markers may be established in rule for specific
11 applications. The company name and service mark ~~((with the
12 applicator's telephone number where information can be obtained))~~ shall
13 be included between the headline and the footer on ~~((the marker. The
14 letters and service marks))~~ a marker placed by a commercial applicator.
15 The applicator's telephone number where information can be obtained
16 about the application shall be included in the footer of the marker.
17 Markers shall be printed in colors contrasting to the background.

18 (4) The property owner or tenant shall remove the marker according
19 to the schedule established in rule. A ~~((commercial))~~ certified
20 applicator or individual who complies with this section is not liable
21 for the removal of markers by unauthorized persons or removal outside
22 the designated removal time.

23 (5) A certified applicator or individual who complies with this
24 section cannot be held liable for personal property damage or bodily
25 injury resulting from markers that are placed as required.

26 NEW SECTION. Sec. 3. A new section is added to chapter 17.21 RCW
27 to read as follows:

28 (1) As used in this section, "school" means a licensed day care
29 center or a public kindergarten or a public elementary or secondary
30 school.

31 (2) A school shall provide written notification annually or upon
32 enrollment to parents or guardians of students and employees describing
33 the school's pest control policies and methods, including the posting
34 and notification requirements of this section.

35 (3) A school shall establish a notification system that, as a
36 minimum, notifies interested parents or guardians of students and
37 employees at least forty-eight hours before a pesticide application to

1 a school facility. The notification system shall include posting of
2 the notification in a prominent place in the main office of the school.

3 (4) All notifications to parents, guardians, and employees shall
4 include the heading "Notice: Pesticide Application" and, at a minimum,
5 shall state:

6 (a) The product name of the pesticide to be applied;

7 (b) The intended date and time of application;

8 (c) The location to which the pesticide is to be applied;

9 (d) The pest to be controlled; and

10 (e) The name and phone number of a contact person at the school.

11 (5) A school facility application must be made within forty-eight
12 hours following the intended date and time stated in the notification
13 or the notification process shall be repeated.

14 (6) A school shall, at the time of application, post notification
15 signs for all pesticide applications made to school facilities unless
16 the application is otherwise required to be posted by a certified
17 applicator under the provisions of RCW 17.21.410(1)(d).

18 (a) Notification signs for applications made to school grounds by
19 school employees shall be placed at the location of the application and
20 at each primary point of entry to the school grounds. The signs shall
21 be a minimum of four inches by five inches and shall include the words:
22 "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY
23 YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as
24 the footer. The footer shall provide the name and telephone number of
25 a contact person at the school.

26 (b) Notification signs for applications made to school facilities
27 other than school grounds shall be posted at the location of the
28 application. The signs shall be a minimum of eight and one-half by
29 eleven inches and shall include the heading "Notice: Pesticide
30 Application" and, at a minimum, shall state:

31 (i) The product name of the pesticide applied;

32 (ii) The date and time of application;

33 (iii) The location to which the pesticide was applied;

34 (iv) The pest to be controlled; and

35 (v) The name and phone number of a contact person at the school.

36 (c) Notification signs shall be printed in colors contrasting to
37 the background.

38 (d) Notification signs shall remain in place for at least
39 twenty-four hours from the time the application is completed. In the

1 event the pesticide label requires a restricted entry interval greater
2 than twenty-four hours, the notification sign shall remain in place
3 consistent with the restricted entry interval time as required by the
4 label.

5 (7) A school facility application does not include the application
6 of antimicrobial pesticides or the placement of insect or rodent baits
7 that are not accessible to children.

8 (8) The prenotification requirements of this section do not apply
9 if the school facility application is made when the school is not
10 occupied by students for at least two consecutive days after the
11 application.

12 (9) The prenotification requirements of this section do not apply
13 to any emergency school facility application for control of any pest
14 that poses an immediate human health or safety threat, such as an
15 application to control stinging insects. When an emergency school
16 facility application is made, notification consistent with the school's
17 notification system shall occur as soon as possible after the
18 application. The notification shall include information consistent
19 with subsection (6)(b) of this section.

20 (10) A school shall make the records of all pesticide applications
21 to school facilities required under this chapter, including an annual
22 summary of the records, readily accessible to interested persons.

23 (11) A school is not liable for the removal of signs by
24 unauthorized persons. A school that complies with this section may not
25 be held liable for personal property damage or bodily injury resulting
26 from signs that are placed as required.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320
28 RCW to read as follows:

29 Schools as defined in section 3 of this act shall provide notice of
30 pesticide use to parents or guardians of students and employees
31 pursuant to chapter 17.21 RCW.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.15 RCW
33 to read as follows:

34 Licensed day care centers shall provide notice of pesticide use to
35 parents or guardians of students and employees pursuant to chapter
36 17.21 RCW.

1 NEW SECTION. **Sec. 6.** Except for section 7 of this act, this act
2 takes effect July 1, 2002.

3 NEW SECTION. **Sec. 7.** If specific funding for the purposes of this
4 act, referencing this act by bill or chapter number, is not provided by
5 June 30, 2001, in the omnibus appropriations act, this act is null and
6 void."

7 **SSB 5533** - H COMM AMD
8 By Committee on Agriculture & Ecology

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10 On page 1, line 2 of the title, after "schools;" strike the
11 remainder of the title and insert "amending RCW 17.21.020 and
12 17.21.410; adding a new section to chapter 17.21 RCW; adding a new
13 section to chapter 28A.320 RCW; adding a new section to chapter 74.15
14 RCW; creating a new section; and providing an effective date."

EFFECT: (1) Adds a null and void clause, (2) exempts private
kindergartens and private schools from the posting and notification
requirements of the bill, and (3) requires: (a) As a minimum, the
notification of interested persons through the school's notification
system; (b) follow-up notifications after emergency applications of
pesticides; and (c) annual summaries of pesticide application records
be available to interested persons.

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