

HOUSE BILL REPORT

SSB 5533

As Reported by House Committee On:
Agriculture & Ecology

Title: An act relating to posting and notification of pesticide applications at schools.

Brief Description: Posting and notification of pesticide applications at schools.

Sponsors: By Senate Committee on Education (originally sponsored by Senators Eide, Rasmussen, Swecker, Patterson, Fairley, Zarelli, Roach, Jacobsen, Kohl-Welles, Costa, McAuliffe, Spanel, Franklin, Shin, B. Sheldon, Constantine, Hargrove, Kastama, Prentice, Kline, Stevens and Gardner; by request of Department of Agriculture).

Brief History:

Committee Activity:

Agriculture & Ecology: 3/27/01, 3/29/01 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Requires each day care center and each public kindergarten, public elementary school, and public secondary school to provide certain notices of its pest control policies and methods and to provide notice of and post signs regarding applications of pesticides to its buildings and property, and provides exemptions from this requirement; and
- Expands the types of applications of pesticides to other landscapes for which notification markers must be placed and regarding which records must be kept.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Mielke, Republican Vice Chair; B. Chandler, Delvin, Dunshee, Grant, Hunt, Quall, Roach and Sump.

Minority Report: Without recommendation. Signed by 1 member: Representative Schoesler.

Staff: Kenneth Hirst (786-7105).

Background:

Pesticide Registration and Use. The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency. The "pesticides" regulated in this manner encompass herbicides, insecticides, and similar chemicals that control pests. At the state level, pesticides sold or distributed within the state must be registered under the Washington Pesticide Control Act. The use or application of pesticides in the state is regulated under the Washington Pesticide Application Act.

Landscape Applications. Persons who are licensed as applicators must post markers when they make landscape applications of pesticides to schools, nursery schools or licensed day cares; to certain residential or commercial properties; to golf courses; or to parks, cemeteries, rest stops or similar properties identified by rule. These markers must provide certain specified information regarding the applications.

Recordkeeping. Licensed applicators, persons applying pesticides to more than one acre of agricultural land in a year, public entities making road-side applications of pesticides and, with certain exceptions, licensed applicators making landscape applications of pesticides must make and maintain certain specified records of the applications.

Summary of Amended Bill:

School Facility Applications: Notices and Signs. Each "school" must provide written notice annually, or upon enrollment, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements. The schools subject to this requirement are licensed day care centers, public kindergartens, and public elementary and secondary schools. Such a school must establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least 48 hours before a pesticide application is made to a school facility. The notification system must include posting of the notice in a prominent place in the main office of the school. The content of such a notice is specified.

A school facility application must be made within 48 hours following the intended date and time stated in the notice or the notification process must be repeated. The school must, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under current law.

Notification signs for applications made to school grounds by school employees must be placed at the location of the application and at each primary point of entry to the school grounds. The site and content of the signs are specified. Notification signs for applications made to school facilities other than school grounds must be posted at the location of the application. The size and content of these signs are also specified. The signs must remain in place for at least 24 hours from the time the application is completed or during the restricted re-entry interval required by the pesticide's label, whichever is longer.

A school must make the records of all pesticide applications to school facilities readily accessible to interested persons. These must include an annual summary of the records. A school is not liable for the removal of signs by unauthorized persons. A school that complies with these requirements may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

Exemptions. These requirements regarding school facility applications do not apply to applications of antimicrobial pesticides intended for use as disinfectants or sanitizers, or to the placement of insect or rodent baits that are not accessible to children. The pre-notification requirements do not apply: if the application is made when the school is not occupied by students for at least two consecutive days after the application; or to any emergency applications for controlling any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. Notification is required following such an emergency application.

Provisions Governing Other Types of Applications. The landscape applications of pesticides for which marking and other requirements are currently established are altered. The applications regulated in this manner are applications of pesticides to the exterior landscaped area, not just the plants in that area. The pesticide application records that must now be made and maintained by licensed applicators and certain others must now also be made and maintained by any person who applies a pesticide to the exterior landscaped areas of commercial properties such as apartments or shopping centers; golf courses; schools, nursery schools, day cares; or parks, cemeteries, rest stops, or similar property identified by rule. As under current law, these requirements for marking and recordkeeping do not apply to applications made by licensed private applicators, structural applications of pesticides made by licensed applicators, certain pesticide applications made to control mosquitos, or applications of pesticides to residences other than apartments.

The waiver of liability established in current law for the placement or unauthorized removal of markers now applies to any person complying with the marker placement requirements for landscape applications. The location on a marker used for a landscape application for a commercial applicator's telephone number is changed.

Amended Bill Compared to Substitute Bill:

Added by the amendment are the null and void clause and the requirements that: the school's notification system notify interested persons as a minimum; follow-up notifications be made after emergency applications of pesticides; and annual summaries of pesticide application records be available to interested persons. The amendment applies these posting and notification requirements to licensed day care centers and public schools, not to private schools.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The act takes effect July 1, 2002, except Sec. 7 which provides the null and void clause.

Testimony For: (Substitute Senate Bill): (1) A task force on integrated pest management (IPM) has been working on this subject for several years and a concentrated effort was made by a group representing a wide range of interests last interim. The bill represents one-half the legislation prepared by an interim work group and one-half of the Department of Agriculture's agency request legislation on this subject; it is a good step in the right direction. (2) Licensure was segregated from the bill in response to the tight budget situation. (3) The schools have been given flexibility in providing the notices so that they may respond to local situations; some can use the newsletters of their Parents-Teachers Associations for some of the information; but others do not have these associations. This flexibility should mitigate the fiscal impact indicated in the fiscal note. (4) The bill supports parents' right-to-know, particularly for those with children who are asthmatic or have chemical sensitivities. Parents have a responsibility for the health of their children that is difficult to fulfill if they do not know about pesticide applications at their children's schools. (5) The bill is about communication between parents and schools. Getting information to parents regarding pesticide applications at schools is a high priority. (6) The problem being addressed is not a large scale problem. The trend has been for a reduction in pesticide use at schools. The notification and signing program should be kept as simple as possible.

Testimony Against: (Substitute Senate Bill): The header for notices (flags) for school landscape applications should be the same as those for other landscape applications so schools can use the generic flags rather than having to special order the flags.

Testified: (In favor, Substitute Senate Bill): Senator Eide, prime sponsor; Lynden Baum, Department of Health; Mary Beth Lang, Department of Agriculture; Jean Carpenter, Parent-Teachers Association; Heather Hansen, Washington Friends of Farms and Forests; and Ken Kenickeberg, Office of the Superintendent of Public Instruction.

(With comments): Erika Schrader, Washington Toxics Coalition.

