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SENATE BILL 5851

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State of Washington

57th Legislature

2001 Regular Session

By Senators Rasmussen and Franklin; by request of Department of Agriculture

Read first time 02/06/2001. Referred to Committee on Agriculture & International Trade.

1 AN ACT Relating to authorizing the director of agriculture to  
2 consult with public entities on human health risks associated with any  
3 proposed pesticide use by the department; amending RCW 15.58.060 and  
4 15.58.065; and adding a new section to chapter 15.58 RCW.

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

6 **Sec. 1.** RCW 15.58.060 and 1989 c 380 s 4 are each amended to read  
7 as follows:

8 (1) The applicant for registration shall file a statement with the  
9 department which shall include:

10 (a) The name and address of the applicant and the name and address  
11 of the person whose name will appear on the label, if other than the  
12 applicant's;

13 (b) The name of the pesticide;

14 (c) The complete formula of the pesticide, including a listing of  
15 the active and inert ingredients(~~(:—PROVIDED, That confidential~~  
16 ~~business information of a proprietary nature is not made available to~~  
17 ~~any other person and is exempt from disclosure as a public record, as~~  
18 ~~provided by RCW 42.17.260)) and the percentages of each ingredient.  
19 Except as provided in RCW 15.58.065 and section 3 of this act, this~~

1 information will be kept confidential and is exempt from disclosure as  
2 a public record as provided by RCW 42.17.260. Information required by  
3 this subsection may be submitted on company letterhead marked  
4 "confidential" in red ink on each sheet or each "EPA Confidential  
5 Statement of Formula" information sheet;

6 (d) Other necessary information required for completion of the  
7 department's application for registration form; and

8 (e) A complete copy of the labeling accompanying the pesticide and  
9 a statement of all claims to be made for it, including the directions  
10 and precautions for use.

11 (2) The director may require a full description of the tests made  
12 and the results thereof upon which the claims are based.

13 (3) The director may prescribe other necessary information by rule.

14 **Sec. 2.** RCW 15.58.065 and 1989 c 380 s 5 are each amended to read  
15 as follows:

16 (1) In submitting data required by this chapter, the applicant may:

17 (a) Mark clearly any portions which in the applicant's opinion are  
18 trade secrets or commercial or financial information; and

19 (b) Submit such marked material separately from other material  
20 required to be submitted under this chapter.

21 (2) Except under section 3 of this act and notwithstanding any  
22 other provision of this chapter or other law, the director shall not  
23 make public information which in the director's judgment should be  
24 privileged or confidential because it contains or relates to trade  
25 secrets or commercial or financial information except that, when  
26 necessary to carry out the provisions of this chapter, information  
27 relating to unpublished formulas of products acquired by authorization  
28 of this chapter may be revealed to any state or federal agency  
29 consulted and may be revealed at a public hearing or in findings of  
30 fact issued by the director when necessary under this chapter.

31 (3) Except under section 3 of this act, if the director proposes to  
32 release for inspection information which the applicant or registrant  
33 believes to be protected from disclosure under subsection (2) of this  
34 section, the director shall notify the applicant or registrant in  
35 writing, by certified mail. The director shall not thereafter make  
36 available for inspection such data until thirty days after receipt of  
37 the notice by the applicant or registrant. During this period, the  
38 applicant or registrant may institute an action in the superior court

1 of Thurston county for a declaratory judgment as to whether such  
2 information is subject to protection under subsection (2) of this  
3 section.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 15.58 RCW,  
5 to be codified between RCW 15.58.065 and 15.58.070, to read as follows:

6 (1) The director may consult with appropriate public university  
7 personnel and federal, state, and local health agencies concerning  
8 unpublished formulas of products acquired by authorization of this  
9 chapter for the purpose of obtaining an independent assessment of the  
10 possible human health risks associated with any proposed pesticide use  
11 by the department.

12 (2) The director shall reveal to consulted individuals the  
13 confidential statement of formula for the purpose of assessing the  
14 possible human health risks associated with the proposed pesticide use  
15 by the department.

16 (3) Consulted individuals shall consider the confidential statement  
17 of formula, the proposed pesticide use, the impact on affected  
18 populations, and any other considerations that may bear on public  
19 health in making an assessment of the possible human health risks.

20 (4) The director shall make any independent assessment available to  
21 the public except that the names, chemical abstract service numbers, or  
22 other identifying characteristics or percentages of inert ingredients  
23 in a pesticide, nor any other information marked as confidential by the  
24 registrant, shall not be disclosed. Additionally, any information or  
25 documents used in preparation of an independent assessment that pertain  
26 to the confidential statement of formula and any protected trade secret  
27 information shall not be disclosed to the public by any person.

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