
SENATE BILL 6385

State of Washington

55th Legislature

1998 Regular Session

By Senators Roach, Fraser, Swecker, Oke, Winsley, Spanel, B. Sheldon, Fairley, Kline, Thibaudeau, Franklin and Patterson

Read first time 01/16/98. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to notification of pesticide application; amending
2 RCW 17.21.020; and adding a new section to chapter 17.21 RCW.

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

4 **Sec. 1.** RCW 17.21.020 and 1994 c 283 s 1 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

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

1 (3) "Apparatus" means any type of ground, water, or aerial
2 equipment, device, or contrivance using motorized, mechanical, or
3 pressurized power and used to apply any pesticide on land and anything
4 that may be growing, habitating, or stored on or in such land, but
5 shall not include any pressurized handsized household device used to
6 apply any pesticide, or any equipment, device, or contrivance of which
7 the person who is applying the pesticide is the source of power or
8 energy in making such pesticide application, or any other small
9 equipment, device, or contrivance that is transported in a piece of
10 equipment licensed under this chapter as an apparatus.

11 (4) "Arthropod" means any invertebrate animal that belongs to the
12 phylum arthropoda, which in addition to insects, includes allied
13 classes whose members are wingless and usually have more than six legs;
14 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

15 (5) "Certified applicator" means any individual who is licensed as
16 a commercial pesticide applicator, commercial pesticide operator,
17 public operator, private-commercial applicator, demonstration and
18 research applicator, or certified private applicator, or any other
19 individual who is certified by the director to use or supervise the use
20 of any pesticide which is classified by the EPA or the director as a
21 restricted use pesticide.

22 (6) "Commercial pesticide applicator" means any person who engages
23 in the business of applying pesticides to the land of another.

24 (7) "Commercial pesticide operator" means any employee of a
25 commercial pesticide applicator who uses or supervises the use of any
26 pesticide and who is required to be licensed under provisions of this
27 chapter.

28 (8) "Defoliant" means any substance or mixture of substances
29 intended to cause the leaves or foliage to drop from a plant with or
30 without causing abscission.

31 (9) "Department" means the Washington state department of
32 agriculture.

33 (10) "Desiccant" means any substance or mixture of substances
34 intended to artificially accelerate the drying of plant tissues.

35 (11) "Device" means any instrument or contrivance intended to trap,
36 destroy, control, repel, or mitigate pests, but not including equipment
37 used for the application of pesticides when sold separately from the
38 pesticides.

1 (12) "Direct supervision" by certified private applicators shall
2 mean that the designated restricted use pesticide shall be applied for
3 purposes of producing any agricultural commodity on land owned or
4 rented by the applicator or the applicator's employer, by a competent
5 person acting under the instructions and control of a certified private
6 applicator who is available if and when needed, even though such
7 certified private applicator is not physically present at the time and
8 place the pesticide is applied. The certified private applicator shall
9 have direct management responsibility and familiarity of the pesticide,
10 manner of application, pest, and land to which the pesticide is being
11 applied. Direct supervision by all other certified applicators means
12 direct on-the-job supervision and shall require that the certified
13 applicator be physically present at the application site and that the
14 person making the application be in voice and visual contact with the
15 certified applicator at all times during the application. Direct
16 supervision of an aerial apparatus means the pilot of the aircraft must
17 be appropriately certified.

18 (13) "Director" means the director of the department or a duly
19 authorized representative.

20 (14) "Engage in business" means any application of pesticides by
21 any person upon lands or crops of another.

22 (15) "EPA" means the United States environmental protection agency.

23 (16) "EPA restricted use pesticide" means any pesticide classified
24 for restricted use by the administrator, EPA.

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

27 (18) "Fumigant" means any pesticide product or combination of
28 products that is a vapor or gas or forms a vapor or gas on application
29 and whose method of pesticidal action is through the gaseous state.

30 (19) "Fungi" means all nonchlorophyll-bearing thallophytes (all
31 nonchlorophyll-bearing plants of lower order than mosses and
32 liverworts); for example, rusts, smuts, mildews, molds, and yeasts,
33 except those on or in a living person or other animals.

34 (20) "Fungicide" means any substance or mixture of substances
35 intended to prevent, destroy, repel, or mitigate any fungi.

36 (21) "Herbicide" means any substance or mixture of substances
37 intended to prevent, destroy, repel, or mitigate any weed or other
38 higher plant.

1 (22) "Immediate service call" means a landscape application to
2 satisfy an emergency customer request for service, or a treatment to
3 control a pest to landscape plants.

4 (23) "Indoor treatment" means an application by a certified
5 applicator, commercial property owner, employer, administrator,
6 building manager, or agent of the owner or employer of any pesticide,
7 with the exception of germicides, sanitizers, and disinfectants, to any
8 building including, but not limited to, a workplace, educational
9 institution, day-care facility, public facility, or public housing,
10 including multifamily dwellings. This definition does not apply to
11 privately owned or rented single-family homes. A treatment is an
12 indoor treatment although the treatment may include an outside
13 perimeter treatment of the building if the primary purpose of the
14 treatment is to treat the interior of the building.

15 (24) "Insect" means any small invertebrate animal, in any life
16 stage, whose adult form is segmented and which generally belongs to the
17 class insecta, comprised of six-legged, usually winged forms, as, for
18 example, beetles, bugs, bees, and flies. The term insect shall also
19 apply to other allied classes of arthropods whose members are wingless
20 and usually have more than six legs, for example, spiders, mites,
21 ticks, centipedes, and isopod crustaceans.

22 (~~(24)~~) (25) "Insecticide" means any substance or mixture of
23 substances intended to prevent, destroy, repel, or mitigate any insect.

24 (~~(25)~~) (26) "Land" means all land and water areas, including
25 airspace and all plants, animals, structures, buildings, devices, and
26 contrivances, appurtenant to or situated on, fixed or mobile, including
27 any used for transportation.

28 (~~(26)~~) (27) "Landscape application" means an application by a
29 certified applicator of any EPA registered pesticide to any exterior
30 landscape plants found around residential property, commercial
31 properties such as apartments or shopping centers, parks, golf courses,
32 schools including nursery schools and licensed day cares, or cemeteries
33 or similar areas. This definition shall not apply to: (a)
34 Applications made by certified private applicators; (b) mosquito
35 abatement, gypsy moth eradication, or similar wide-area pest control
36 programs sponsored by governmental entities; and (c) commercial
37 pesticide applicators making structural applications.

38 (~~(27)~~) (28) "Nematocide" means any substance or mixture of
39 substances intended to prevent, destroy, repel, or mitigate nematodes.

1 (~~(28)~~) (29) "Nematode" means any invertebrate animal of the
2 phylum nemathelminthes and class nematoda, that is, unsegmented round
3 worms with elongated, fusiform, or saclike bodies covered with cuticle,
4 and inhabiting soil, water, plants or plant parts. Nematodes may also
5 be called nemas or eelworms.

6 (~~(29)~~) (30) "Person" means any individual, partnership,
7 association, corporation, or organized group of persons whether or not
8 incorporated.

9 (~~(30)~~) (31) "Pest" means, but is not limited to, any insect,
10 rodent, nematode, snail, slug, weed, and any form of plant or animal
11 life or virus, except virus, bacteria, or other microorganisms on or in
12 a living person or other animal or in or on processed food or beverages
13 or pharmaceuticals, which is normally considered to be a pest, or which
14 the director may declare to be a pest.

15 (~~(31)~~) (32) "Pesticide" means, but is not limited to:

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

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

20 (c) Any spray adjuvant, such as a wetting agent, spreading agent,
21 deposit builder, adhesive, emulsifying agent, deflocculating agent,
22 water modifier, or similar agent with or without toxic properties of
23 its own intended to be used with any pesticide as an aid to the
24 application or effect thereof, and sold in a package or container
25 separate from that of the pesticide with which it is to be used.

26 (~~(32)~~) (33) "Pesticide advisory board" means the pesticide
27 advisory board as provided for in this chapter.

28 (~~(33)~~) (34) "Plant regulator" means any substance or mixture of
29 substances intended through physiological action, to accelerate or
30 retard the rate of growth or maturation, or to otherwise alter the
31 behavior of ornamental or crop plants or their produce, but shall not
32 include substances insofar as they are intended to be used as plant
33 nutrients, trace elements, nutritional chemicals, plant inoculants, or
34 soil amendments.

35 (~~(34)~~) (35) "Private applicator" means a certified applicator who
36 uses or is in direct supervision of the use of any pesticide classified
37 by the EPA or the director as a restricted use pesticide, for the
38 purposes of producing any agricultural commodity and for any associated
39 noncrop application on land owned or rented by the applicator or the

1 applicator's employer or if applied without compensation other than
2 trading of personal services between producers of agricultural
3 commodities on the land of another person.

4 ~~((+35+))~~ (36) "Private-commercial applicator" means a certified
5 applicator who uses or supervises the use of any pesticide classified
6 by the EPA or the director as a restricted use pesticide for purposes
7 other than the production of any agricultural commodity on lands owned
8 or rented by the applicator or the applicator's employer.

9 ~~((+36+))~~ (37) "Residential property" includes property less than
10 one acre in size zoned as residential by a city, town, or county, but
11 does not include property zoned as agricultural or agricultural
12 homesites.

13 ~~((+37+))~~ (38) "Restricted use pesticide" means any pesticide or
14 device which, when used as directed or in accordance with a widespread
15 and commonly recognized practice, the director determines, subsequent
16 to a hearing, requires additional restrictions for that use to prevent
17 unreasonable adverse effects on the environment including people,
18 lands, beneficial insects, animals, crops, and wildlife, other than
19 pests.

20 ~~((+38+))~~ (39) "Rodenticide" means any substance or mixture of
21 substances intended to prevent, destroy, repel, or mitigate rodents, or
22 any other vertebrate animal which the director may declare by rule to
23 be a pest.

24 ~~((+39+))~~ (40) "Snails or slugs" include all harmful mollusks.

25 ~~((+40+))~~ (41) "Unreasonable adverse effects on the environment"
26 means any unreasonable risk to people or the environment taking into
27 account the economic, social, and environmental costs and benefits of
28 the use of any pesticide, or as otherwise determined by the director.

29 ~~((+41+))~~ (42) "Weed" means any plant which grows where it is not
30 wanted.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 17.21 RCW
32 to read as follows:

33 (1) Any person making an indoor treatment shall:

34 (a) Post a pesticide notification sign at the treatment site, at a
35 central area in one building, and at every entry point to the building
36 at least forty-eight hours before an indoor treatment and leave the
37 sign posted at least one week after an indoor treatment;

1 (b) Provide a pesticide label and material safety data sheet to the
2 property owner, employer, administrator, building manager, or agent of
3 the owner or employer, or other responsible person, located on site
4 with responsibility for providing the pesticide label and material
5 safety data sheet upon request; and

6 (c) Provide pesticide notification signs in a language other than
7 English if requested by the property owner, employer, administrator,
8 building manager, or agent of the owner or employer.

9 (2)(a) The director, principal, headmaster, president, or chief
10 administrator of a school, educational institution, or day care center
11 shall provide students, parents, and guardians, at the time of
12 registration, and employees at the time of employment, written
13 information regarding pest management practices used, including but not
14 limited to:

15 (i) Whether indoor treatments are made;

16 (ii) The name of the responsible person;

17 (iii) Information on how to obtain the pesticide label and material
18 safety data sheet.

19 (b) The director, principal, headmaster, president, or chief
20 administrator of a school, educational institution, or day care center
21 shall provide forty-eight hours' written notice to students, parents,
22 guardians, and employees of an indoor treatment. The notice must be
23 substantially in the form required for a pesticide notification sign
24 and shall be distributed to employees using internal communications and
25 to parents and guardians by mail or by hand delivery.

26 (c) Any school, educational institution, or day care center that
27 performs an indoor treatment during an extended break of one week or
28 more, and that performs the treatment no less than ninety-six hours
29 before the end of the break, is exempt from requirements in (b) of this
30 subsection. This subsection (2)(c) is not intended to exempt any
31 school, educational institution, or day care center that performs an
32 indoor treatment not during an extended break from requirements in (b)
33 of this subsection.

34 (d) No children may be admitted to the indoor treatment site within
35 twenty-four hours of the indoor treatment.

36 (3) The property owner, employer, administrator, building manager,
37 agent of the owner of employer, or other responsible party and the
38 director, principal, headmaster, president, chief administrator, or
39 other responsible party of a school, educational institution, or day

- 1 care center, must provide the appropriate pesticide label and material
- 2 safety data sheet to any person who requests it.

--- END ---