

# SENATE BILL REPORT

## SB 6529

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As of February 1, 2018

**Title:** An act relating to protecting agricultural workers and community members from pesticides.

**Brief Description:** Protecting agricultural workers and community members from pesticides.

**Sponsors:** Senators Saldaña, Ranker, Cleveland, Rolfes, Van De Wege, Miloscia, Chase, Conway, McCoy, Hunt, Keiser and Hasegawa.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/25/18.

**Brief Summary of Bill**

- Requires that pesticide records must be provided to the Department of Health (DOH) on a monthly basis (monthly report).
- Establishes a pesticide notification list administered by the DOH related to pesticide applications on adjacent properties.
- Allows DOH to assess fines up to \$7,500 for violations.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Susan Jones (786-7404)

**Background:** Pesticides are regulated by the state and federal government. At the state level, several state agencies have responsibilities.

Under the Worker and Community Right to Know Act (Right to Know Act), administered by the Department of Labor & Industries, information regarding hazardous substances must be provided to employees and community members. The Department of Agriculture (WSDA) administers the federal Insecticide, Fungicide, and Rodenticide Act, as well as the state Pesticide Control Act and the state Pesticide Application Act. Its activities include adopting rules requiring the registration and restricting the use of pesticides, testing and certifying pesticide applicators, issuing handler and worker pesticide training documentation, and providing technical assistance to pesticide applicators and workers. DOH tracks and

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investigates pesticide-related illnesses, and provides education and technical assistance to physicians and other agencies.

- Both the Pesticide Application Act and the Right to Know Act require recordkeeping for pesticide applications by applicators and employers who apply or cause pesticides to be applied (pesticide records). The pesticide records must include the following:
  - the location of the land where pesticide was applied;
  - the year, month, day, and time of application;
  - the product name and Environmental Protection Agency registration number;
  - the crop or site to which pesticide was applied; the amount of pesticide applied per acre;
  - the concentration of pesticide applied;
  - the number of acres to which pesticide was applied;
  - the applicator's name, address, and telephone number;
  - the direction and estimated velocity of the wind during the time the pesticide was applied; and
  - any other information reasonably required by rule.

The pesticide records must be readily accessible to the respective agencies for inspection and must be provided upon request to other specified agencies and treating health care personnel.

Schools must notify interested parents or guardians of students and employees at least 48 hours before a pesticide application and must place signs regarding pesticide applications.

Pesticide sensitive individuals may apply to WSDA to be included on a pesticide notification list. This application must list property abutting the applicant's principle place of residence. These lands constitute the pesticide notification area for the applicant. This list is made available to all certified pesticide applicators. The pesticide sensitivity of an individual must be certified by a licensed physician.

**Summary of Bill: Monthly Reports.** Pesticide records must be provided to DOH on a monthly basis. DOH may investigate and assess a civil fine up to \$7,500 for failing to provide required monthly report.

**Pesticide Notification List.** DOH must develop a list of individuals who apply to receive notification of pesticide applications on any adjacent property. An applicant must receive verification that the applicant's name has been placed on the pesticide notification list. The pesticide notification list does not expire; but an applicant may request to be removed from the list.

A pesticide user must provide notice to DOH of an intended pesticide application with certain information. The notice must be provided at least four business days before the intended application.

Upon receipt of the notice, DOH must notify all persons:

- on the pesticide notification list whose street addresses are on adjacent properties to the property of the intended pesticide application, and

- who own, manage, or control a school or a child day care center that are located on adjacent properties to the property of the intended pesticide application.

The notification must be at least two hours prior to the scheduled application. Notification by DOH may be by email, text message, or by telephone, and must disclose the date and approximate time of the application and provide a link to a webpage that contains:

- certain information;
- a statement containing the following: (1) only protected pesticide handlers should be in a treated area during pesticide application; and (2) the pesticide should not contact workers or other persons, directly or through drift;
- the restricted-entry interval on the pesticide label and a statement that if pesticide contacts an area, persons should avoid that area for the restricted-entry interval; and
- a statement in English and Spanish that the notice pertains to a pesticide application, that the pesticide user can provide further information, and that the pesticide user may be reached at the telephone number provided in the notice. The statement must be in bold-face type at the top of the notice.

DOH may investigate and assess a civil fine up to \$7,500 for violation the provisions of the pesticide notification provisions.

Terms are defined, including adjacent property which means any property located within one-quarter mile distance from the intended pesticide application.

Legislative Findings. Legislative findings are made about pesticide exposures resulting in health problems for agricultural workers; that pesticide drift poses significant risks to community members; and that lack of communication is an issue. The Legislature declares that agricultural workers and community members should be protected from pesticide exposure and notified to prevent unnecessary exposure and that the public has an interest in information about pesticide applications.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2018.

**Staff Summary of Public Testimony:** PRO: We support advance notification. Researcher could use information to analyze pesticide exposure. Records are already required by law, but does not become public. This is especially important in rural communities and for farm workers. One-half of applications miss their intended target. Airblast applicators are the greatest source of drift. Siting schools outside their area may put children at risk of exposure. Harmful pollution is harming communities of color disproportionately. Nine out of ten people who are exposed to pesticide drift are not employed on the farm that is applying the pesticide. Drift impacts the farm workers and their families when they bring it home on their clothes. Notification seems like a good step and a feasible one. As people live closer to farms, we need to have information available to make informed decisions. Many exposures

go unreported because of fear of taking time off work or other reasons. Pesticides have serious impacts.

CON: Farmers have to decide in a short period of time when to apply pesticides. The four-day notification would be devastating to farmers and farm products. It can be only a few hours, depending on expected weather conditions. Every hour may impact the effectiveness of the product. If we are not using the product properly, we could lose the orchard and may have to wait three years to replant. We only apply the product as needed. Products are expensive and timing is important. Applicators are licensed and trained. Drift is already illegal.

**Persons Testifying:** PRO: Senator Rebecca Saldaña, Prime Sponsor; Megan Dunn, Healthy People and Communities Program Director, Northwest Center for Alternatives to Pesticide; Lucinda Young, Chief Lobbyist, Washington Education Association; Darcy Nonemacher, Government Affairs Director, Washington Environmental Council; Eric Gonzalez Alfaro, Legislative and Policy Director, Washington State Labor Council, AFL-CIO; Andrea Schmitt, Columbia Legal Services.

CON: Stacy Kniveton; Flor Maldonado, M&A Orchards; Gavin Morse, Owner: GEM AIR Inc., President: Association of Washington Aerial Applicators; Nicole Berg, Washington Association of Wheat Growers; Bill Zimmerman, B-Z Farms; Rob Dhaliwal, Samson Farms.

OTHER: Joel Kangiser, Washington State Dental Association, Pesticide Compliance; Lauren Jenks, Washington State Department Of Health; Andrew Hayes, Forest Resources Division Manager, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying:** CON: Jim Jesernig, Washington Potato & Onion Association; Heath Gimmestad, citizen; Travis Meachem, citizen; Grant Morris, citizen; Heather Hansen, Washington Friends of Farms & Forests; Mary Catherine McAleer, Association of Washington Business; Brad Tower, Washington Christmas Tree Growers; Kristi Scholz-O'Leary, Snowshoe Evergreen; Casey Cochran, Cochran Family Farm; Brett Blankenship; Dillon Honcoop, Save Family Farming.