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ENGROSSED HOUSE BILL 1156

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State of Washington

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By Representatives Winsley, Rayburn, Rasmussen, R. Johnson, Cole and Wilson.

Read first time January 21, 1991. Referred to Committee on Commerce & Labor. Referred 1/23/91 to Agriculture & Rural Development.

1 AN ACT Relating to structural pest control inspectors; and amending  
2 RCW 15.58.030, 15.58.040, 15.58.150, and 15.58.210.

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

4 **Sec. 1.** RCW 15.58.030 and 1989 c 380 s 1 are each amended to read  
5 as follows:

6 As used in this chapter the words and phrases defined in this  
7 section shall have the meanings indicated unless the context clearly  
8 requires otherwise.

9 (1) "Active ingredient" means any ingredient which will prevent,  
10 destroy, repel, control, or mitigate pests, or which will act as a  
11 plant regulator, defoliant, desiccant, or spray adjuvant.

12 (2) "Antidote" means the most practical immediate treatment in case  
13 of poisoning and includes first aid treatment.

14 (3) "Arthropod" means any invertebrate animal that belongs to the  
15 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 (4) "Defoliant" means any substance or mixture of substances  
4 intended to cause the leaves or foliage to drop from a plant with or  
5 without causing abscission.

6 (5) "Department" means the Washington state department of  
7 agriculture.

8 (6) "Desiccant" means any substance or mixture of substances  
9 intended to artificially accelerate the drying of plant tissues.

10 (7) "Device" means any instrument or contrivance intended to trap,  
11 destroy, control, repel, or mitigate pests, or to destroy, control,  
12 repel or mitigate fungi, nematodes, or such other pests, as may be  
13 designated by the director, but not including equipment used for the  
14 application of pesticides when sold separately from the pesticides.

15 (8) "Director" means the director of the department or a duly  
16 authorized representative.

17 (9) "Distribute" means to offer for sale, hold for sale, sell,  
18 barter, or supply pesticides in this state.

19 (10) "EPA" means the United States environmental protection agency.

20 (11) "EPA restricted use pesticide" means any pesticide with  
21 restricted uses as classified for restricted use by the administrator,  
22 EPA.

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

25 (13) "Fungi" means all nonchlorophyll-bearing thallophytes (all  
26 nonchlorophyll-bearing plants of a lower order than mosses and  
27 liverworts); for example, rusts, smuts, mildews, molds, yeasts, and  
28 bacteria, except those on or in living persons or other animals.

29 (14) "Fungicide" means any substance or mixture of substances  
30 intended to prevent, destroy, repel, or mitigate any fungi.

1 (15) "Herbicide" means any substance or mixture of substances  
2 intended to prevent, destroy, repel, or mitigate any weed.

3 (16) "Inert ingredient" means an ingredient which is not an active  
4 ingredient.

5 (17) "Ingredient statement" means a statement of the name and  
6 percentage of each active ingredient together with the total percentage  
7 of the inert ingredients in the pesticide, and when the pesticide  
8 contains arsenic in any form, the ingredient statement shall also  
9 include percentages of total and water soluble arsenic, each calculated  
10 as elemental arsenic. In the case of a spray adjuvant the ingredient  
11 statement need contain only the names of the principal functioning  
12 agents and the total percentage of the constituents ineffective as  
13 spray adjuvants. If more than three functioning agents are present,  
14 only the three principal ones need by named.

15 (18) "Insect" means any of the numerous small invertebrate animals  
16 whose bodies are more or less obviously segmented, and which for the  
17 most part belong to the class insecta, comprising six-legged, usually  
18 winged forms, for example, beetles, bugs, bees, flies, and to other  
19 allied classes of arthropods whose members are wingless and usually  
20 have more than six legs, for example, spiders, mites, ticks,  
21 centipedes, and isopod crustaceans.

22 (19) "Insecticide" means any substance or mixture of substances  
23 intended to prevent, destroy, repel, or mitigate any insects which may  
24 be present in any environment whatsoever.

25 (20) "Label" means the written, printed, or graphic matter on, or  
26 attached to, the pesticide, device, or immediate container, and the  
27 outside container or wrapper of the retail package.

28 (21) "Labeling" means all labels and other written, printed, or  
29 graphic matter:

1 (a) Upon the pesticide, device, or any of its containers or  
2 wrappers;

3 (b) Accompanying the pesticide, or referring to it in any other  
4 media used to disseminate information to the public; and

5 (c) To which reference is made on the label or in literature  
6 accompanying or referring to the pesticide or device except when  
7 accurate nonmisleading reference is made to current official  
8 publications of the department, United States departments of  
9 agriculture; interior; education; health and human services; state  
10 agricultural colleges; and other similar federal or state institutions  
11 or agencies authorized by law to conduct research in the field of  
12 pesticides.

13 (22) "Land" means all land and water areas, including airspace and  
14 all plants, animals, structures, buildings, devices and contrivances,  
15 appurtenant thereto or situated thereon, fixed or mobile, including any  
16 used for transportation.

17 (23) "Master license system" means the mechanism established by  
18 chapter 19.02 RCW by which master licenses, endorsed for individual  
19 state-issued licenses, are issued and renewed using a master  
20 application and a master license expiration date common to each  
21 renewable license endorsement.

22 (24) "Nematocide" means any substance or mixture of substances  
23 intended to prevent, destroy, repel, or mitigate nematodes.

24 (25) "Nematode" means any invertebrate animal of the phylum  
25 nemathelminthes and class nematoda, that is, unsegmented round worms  
26 with elongated, fusiform, or saclike bodies covered with cuticle, and  
27 inhabiting soil, water, plants or plant parts, may also be called nemas  
28 or eelworms.

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

1 (27) "Pest" means, but is not limited to, any insect, rodent,  
2 nematode, snail, slug, weed and any form of plant or animal life or  
3 virus, except virus on or in a living person or other animal, which is  
4 normally considered to be a pest or which the director may declare to  
5 be a pest.

6 (28) "Pest control consultant" means any individual who acts as a  
7 structural pest control inspector, who sells or offers for sale at  
8 other than a licensed pesticide dealer outlet or location, or who  
9 offers or supplies technical advice, supervision, or aid, or makes  
10 recommendations to the user of:

11 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

12 (b) EPA restricted use pesticides or restricted use pesticides  
13 which are restricted by rule to distribution by licensed pesticide  
14 dealers only; or

15 (c) Any other pesticide except those pesticides which are labeled  
16 and intended for home and garden use only.

17 (29) "Pesticide" means, but is not limited to:

18 (a) Any substance or mixture of substances intended to prevent,  
19 destroy, control, repel, or mitigate any insect, rodent, snail, slug,  
20 fungus, weed, and any other form of plant or animal life or virus,  
21 except virus on or in a living person or other animal which is normally  
22 considered to be a pest or which the director may declare to be a pest;

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

25 (c) Any spray adjuvant.

26 (30) "Pesticide advisory board" means the pesticide advisory board  
27 as provided for in the Washington pesticide application act.

28 (31) "Pesticide dealer" means any person who distributes any of the  
29 following pesticides:

30 (a) Highly toxic pesticides, as determined under RCW 15.58.040;

1 (b) EPA restricted use pesticides or restricted use pesticides  
2 which are restricted by rule to distribution by licensed pesticide  
3 dealers only; or

4 (c) Any other pesticide except those pesticides which are labeled  
5 and intended for home and garden use only.

6 (32) "Pesticide dealer manager" means the owner or other individual  
7 supervising pesticide distribution at one outlet holding a pesticide  
8 dealer license.

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

16 (34) "Registrant" means the person registering any pesticide under  
17 the provisions of this chapter.

18 (35) "Restricted use pesticide" means any pesticide or device  
19 which, when used as directed or in accordance with a widespread and  
20 commonly recognized practice, the director determines, subsequent to a  
21 hearing, requires additional restrictions for that use to prevent  
22 unreasonable adverse effects on the environment including people,  
23 lands, beneficial insects, animals, crops, and wildlife, other than  
24 pests.

25 (36) "Rodenticide" means any substance or mixture of substances  
26 intended to prevent, destroy, repel, or mitigate rodents, or any other  
27 vertebrate animal which the director may declare by rule to be a pest.

28 (37) "Spray adjuvant" means any wetting agent, spreading agent,  
29 deposit builder, adhesive, emulsifying agent, deflocculating agent,  
30 water modifier, or similar agent with or without toxic properties of

1 its own, intended to be used with any other pesticide as an aid to the  
2 application or to the effect of the pesticide, and which is in a  
3 package or container separate from that of the pesticide with which it  
4 is to be used.

5 (38) "Special local needs registration" means a registration issued  
6 by the director pursuant to provisions of section 24(c) of FIFRA.

7 (39) Structural pest control inspector" means any individual who  
8 commercially performs the service of inspecting a building for the  
9 presence of pests destructive to its structural components.

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

14 (~~(40)~~) (41) "Weed" means any plant which grows where not wanted.

15 **Sec. 2.** RCW 15.58.040 and 1989 c 380 s 2 are each amended to read  
16 as follows:

17 (1) The director shall administer and enforce the provisions of  
18 this chapter and rules adopted under this chapter. All the authority  
19 and requirements provided for in chapter 34.05 RCW (Administrative  
20 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the  
21 adoption of rules including those requiring due notice and a hearing  
22 for the adoption of permanent rules.

23 (2) The director is authorized to adopt appropriate rules for  
24 carrying out the purpose and provisions of this chapter, including but  
25 not limited to rules providing for:

26 (a) Declaring as a pest any form of plant or animal life or virus  
27 which is injurious to plants, people, animals (domestic or otherwise),  
28 land, articles, or substances;

1 (b) Determining that certain pesticides are highly toxic to people.  
2 For the purpose of this chapter, highly toxic pesticide means any  
3 pesticide that conforms to the criteria in 40 C.F.R. Sec. 162.10 for  
4 toxicity category I due to oral inhalation or dermal toxicity. The  
5 director shall publish a list of all pesticides, determined to be  
6 highly toxic, by their common or generic name and their trade or brand  
7 name if practical. Such list shall be kept current and shall, upon  
8 request, be made available to any interested party;

9 (c) Determining standards for denaturing pesticides by color,  
10 taste, odor, or form;

11 (d) The collection and examination of samples of pesticides or  
12 devices;

13 (e) The safe handling, transportation, storage, display,  
14 distribution, and disposal of pesticides and their containers;

15 (f) Restricting or prohibiting the use of certain types of  
16 containers or packages for specific pesticides. These restrictions may  
17 apply to type of construction, strength, and/or size to alleviate  
18 danger of spillage, breakage, misuse, or any other hazard to the  
19 public. The director shall be guided by federal regulations concerning  
20 pesticide containers;

21 (g) Procedures in making of pesticide recommendations;

22 (h) Adopting a list of restricted use pesticides for the state or  
23 for designated areas within the state if the director determines that  
24 such pesticides may require rules restricting or prohibiting their  
25 distribution or use. The director may include in the rule the time and  
26 conditions of distribution or use of such restricted use pesticides and  
27 may, if it is found necessary to carry out the purpose and provisions  
28 of this chapter, require that any or all restricted use pesticides  
29 shall be purchased, possessed, or used only under permit of the  
30 director and under the director's direct supervision in certain areas



1 and/or under certain conditions or in certain quantities or  
2 concentrations. The director may require all persons issued such  
3 permits to maintain records as to the use of all the restricted use  
4 pesticides;

5 (i) Label requirements of all pesticides required to be registered  
6 under provisions of this chapter; (~~and~~)

7 (j) Regulating the labeling of devices; and

8 (k) The establishment of criteria governing the conduct of a  
9 structural pest control inspection.

10 (3) For the purpose of uniformity and to avoid confusion  
11 endangering the public health and welfare the director may adopt rules  
12 in conformity with the primary pesticide standards, particularly as to  
13 labeling, established by the United States environmental protection  
14 agency or any other federal agency.

15 **Sec. 3.** RCW 15.58.150 and 1989 c 380 s 11 are each amended to read  
16 as follows:

17 (1) It is unlawful for any person to distribute within the state or  
18 deliver for transportation or transport in intrastate commerce or  
19 between points within this state through any point outside this state  
20 any of the following:

21 (a) Any pesticide which has not been registered pursuant to the  
22 provisions of this chapter;

23 (b) Any pesticide if any of the claims made for it or any of the  
24 directions for its use or other labeling differs from the  
25 representations made in connection with its registration, or if the  
26 composition of a pesticide differs from its composition as represented  
27 in connection with its registration: PROVIDED, That at the discretion  
28 of the director, a change in the labeling or formula of a pesticide may

1 be made within a registration period without requiring reregistration  
2 of the product;

3 (c) Any pesticide unless it is in the registrant's or the  
4 manufacturer's unbroken immediate container and there is affixed to  
5 such container, and to the outside container or wrapper of the retail  
6 package, if there is one through which the required information on the  
7 immediate container cannot be clearly read, a label bearing the  
8 information required in this chapter and the rules adopted under this  
9 chapter;

10 (d) Any pesticide including arsenicals, fluorides, fluosilicates,  
11 and/or any other white powdered pesticides unless they have been  
12 distinctly denatured as to color, taste, odor, or form if so required  
13 by rule;

14 (e) Any pesticide which is adulterated or misbranded, or any device  
15 which is misbranded;

16 (f) Any pesticide in containers, violating rules adopted pursuant  
17 to RCW 15.58.040(2)(f) or pesticides found in containers which are  
18 unsafe due to damage.

19 (2) It shall be unlawful:

20 (a) To sell or deliver any pesticide to any person who is required  
21 by law or rules promulgated under such law to be certified, licensed,  
22 or have a permit to use or purchase the pesticide unless such person or  
23 the person's agent, to whom sale or delivery is made, has a valid  
24 certification, license, or permit to use or purchase the kind and  
25 quantity of such pesticide sold or delivered: PROVIDED, That, subject  
26 to conditions established by the director, such permit may be obtained  
27 immediately prior to sale or delivery from any person designated by the  
28 director;

29 (b) For any person to detach, alter, deface or destroy, wholly or  
30 in part, any label or labeling provided for in this chapter or rules

1 adopted under this chapter, or to add any substance to, or take any  
2 substance from, a pesticide in a manner that may defeat the purpose of  
3 this chapter or the rules adopted thereunder;

4 (c) For any person to use or cause to be used any pesticide  
5 contrary to label directions or to regulations of the director if those  
6 regulations differ from or further restrict the label directions:  
7 PROVIDED, The compliance to the term "contrary to label directions" is  
8 enforced by the director consistent with the intent of this chapter;

9 (d) For any person to use for his or her own advantage or to  
10 reveal, other than to the director or proper officials or employees of  
11 the state, or to the courts of the state in response to a subpoena, or  
12 to physicians, or in emergencies to pharmacists and other qualified  
13 persons for use in the preparation of antidotes, any information  
14 relative to formulas of products acquired by authority of RCW  
15 15.58.060;

16 (e) For any person to make false, misleading, or erroneous  
17 statements or reports concerning any pest during or after a  
18 (~~structural~~) pest inspection or to fail to comply with criteria  
19 established by rule for structural pest control inspections;

20 (f) For any person to make false, misleading, or erroneous  
21 statements or reports in connection with any pesticide complaint or  
22 investigation.

23 **Sec. 4.** RCW 15.58.210 and 1989 c 380 s 16 are each amended to read  
24 as follows:

25 Except as provided in subsection (2) of this section, no individual  
26 may perform services as a pest control consultant without obtaining  
27 from the director an annual license, which license shall expire on the  
28 final day of February of each year. No individual may act as a  
29 structural pest control inspector without first obtaining from the

1 director a pest control consultant license in the special category of  
2 structural pest control inspector. Application for a license shall be  
3 on a form prescribed by the director and shall be accompanied by a fee  
4 of thirty dollars.

5 (2) The following are exempt from the licensing requirements of  
6 subsection (1) of this section when acting within the authorities of  
7 their existing licenses issued under chapter 17.21 RCW: Licensed  
8 commercial pesticide applicators and operators; licensed private-  
9 commercial applicators; and licensed demonstration and research  
10 applicators(†)). The following are also exempt from the licensing  
11 requirements of subsection (1) of this section: Employees of federal,  
12 state, county, or municipal agencies when acting in their official  
13 governmental capacities; and pesticide dealer managers and employees  
14 working under the direct supervision of the pesticide dealer manager  
15 and only at a licensed pesticide dealer's outlet(~~, are exempt from~~  
16 this licensing provision)).