

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2448

52nd Legislature
1992 Regular Session

Passed by the House February 13, 1992
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 10, 1992
Yeas 47 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2448 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2448

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Rayburn, Nealey and Rasmussen; by request of
Department of Agriculture

Read first time 01/16/92. Referred to Committee on Agriculture & Rural
Development.

1 AN ACT Relating to pesticide licensing; amending RCW 15.58.030,
2 15.58.200, 15.58.245, 17.21.110, 17.21.122, 17.21.126, 17.21.129,
3 17.21.200, and 17.21.910; and reenacting and amending RCW 15.58.210.

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

5 **Sec. 1.** RCW 15.58.030 and 1991 c 264 s 1 are each amended to read
6 as follows:

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

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

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

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

5 (4) "Defoliant" means any substance or mixture of substances
6 intended to cause the leaves or foliage to drop from a plant with or
7 without causing abscission.

8 (5) "Department" means the Washington state department of
9 agriculture.

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

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

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

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

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

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

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

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

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

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

5 (16) "Inert ingredient" means an ingredient which is not an active
6 ingredient.

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

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

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

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

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

3 (a) Upon the pesticide, device, or any of its containers or
4 wrappers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (c) Any spray adjuvant.

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

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

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

4 (b) EPA restricted use pesticides or restricted use pesticides
5 which are restricted by rule to distribution by licensed pesticide
6 dealers only; or

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

9 (32) "Pesticide dealer manager" means the owner or other individual
10 supervising pesticide distribution at one outlet holding a pesticide
11 dealer license.

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

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

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

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

1 (37) "Spray adjuvant" means any wetting agent, spreading agent,
2 deposit builder, adhesive, emulsifying agent, deflocculating agent,
3 water modifier, or similar agent with or without toxic properties of
4 its own, intended to be used with any other pesticide as an aid to the
5 application or to the effect of the pesticide, and which is in a
6 package or container separate from that of the pesticide with which it
7 is to be used.

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

10 (39) "Structural pest control inspector" means any individual who
11 (~~commercially~~) performs the service of inspecting a building for
12 (~~the presence of pests destructive to its structural components~~) wood
13 destroying organisms, their damage, or conditions conducive to their
14 infestation.

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

19 (41) "Weed" means any plant which grows where not wanted.

20 **Sec. 2.** RCW 15.58.200 and 1991 c 109 s 38 are each amended to read
21 as follows:

22 The director shall require each pesticide dealer manager to
23 demonstrate to the director knowledge of pesticide laws and rules;
24 pesticide hazards; and the safe distribution, use and application, and
25 disposal of pesticides by satisfactorily passing a written examination
26 after which the director shall issue a license of qualification.
27 Application for a license shall be accompanied by a license fee of
28 (~~fifty~~) fifteen dollars. The pesticide dealer manager license shall
29 be (~~a five-year~~) an annual license expiring on a date set by rule by

1 the director. License fees shall be prorated where necessary to
2 accommodate staggering of expiration dates of a license or licenses.

3 **Sec. 3.** RCW 15.58.210 and 1991 c 264 s 4 and 1991 c 109 s 39 are
4 each reenacted and amended to read as follows:

5 (1) Except as provided in subsection (2) of this section, no
6 individual may perform services as a pest control consultant without
7 obtaining from the director an annual license, which license shall
8 expire annually on a date set by rule by the director. License fees
9 shall be prorated where necessary to accommodate staggering of
10 expiration dates ~~((or [of]))~~ of a license or licenses. Except as
11 provided in subsection (3) of this section, no individual may act as a
12 structural pest control inspector without first obtaining from the
13 director a pest control consultant license in the special category of
14 structural pest control inspector. Application for a license shall be
15 on a form prescribed by the director and shall be accompanied by a fee
16 of thirty dollars.

17 (2) The following are exempt from the licensing requirements of
18 subsection (1) of this section when acting within the authorities of
19 their existing licenses issued under chapter 17.21 RCW: Licensed
20 commercial pesticide applicators and operators; licensed
21 private-commercial applicators; and licensed demonstration and research
22 applicators. The following are also exempt from the licensing
23 requirements of subsection (1) of this section: Employees of federal,
24 state, county, or municipal agencies when acting in their official
25 governmental capacities; and pesticide dealer managers and employees
26 working under the direct supervision of the pesticide dealer manager
27 and only at a licensed pesticide dealer's outlet.

28 (3) The following are exempt from the structural pest control
29 inspector licensing requirement: Individuals inspecting for damage

1 caused by wood destroying organisms if such inspections are solely for
2 the purpose of: (a) Repairing or making specific recommendations for
3 the repair of such damage, or (b) assessing a monetary value for the
4 structure inspected. Individuals performing wood destroying organism
5 inspections that incorporate but are not limited to the activities
6 described in (a) or (b) of this subsection are not exempt from the
7 structural pest control inspector licensing requirement.

8 **Sec. 4.** RCW 15.58.245 and 1989 c 380 s 21 are each amended to read
9 as follows:

10 Unless revoked for cause by the director, any registration,
11 license, or permit in effect on July 23, 1989, shall continue in full
12 force until its expiration date. Public pest control consultant and
13 pesticide dealer manager licenses valid on December 31, 1985, shall
14 expire on December 31, 1990, and public pest control and pesticide
15 dealer manager licenses issued subsequent to December 31, 1985, and
16 valid on December 31, 1986, shall expire on December 31, 1991. Unless
17 revoked for cause, any pesticide dealer manager license issued prior to
18 the effective date of this act shall be valid until its expiration
19 date.

20 **Sec. 5.** RCW 17.21.110 and 1991 c 109 s 31 are each amended to read
21 as follows:

22 It shall be unlawful for any person to act as an employee of a
23 commercial pesticide applicator and apply pesticides manually or as the
24 operator directly in charge of any apparatus which is licensed or
25 should be licensed under the provisions of this chapter for the
26 application of any pesticide, without having obtained a commercial
27 pesticide operator license from the director. The commercial pesticide
28 operator license shall be in addition to any other license or permit

1 required by law for the operation or use of any such apparatus.
2 Application for a (~~license to apply pesticides manually and/or to~~
3 ~~operate ground apparatuses~~) commercial operator license shall be
4 accompanied by a license fee of thirty dollars. (~~Application for a~~
5 ~~license to operate an aerial apparatus shall be accompanied by a~~
6 ~~license fee of thirty dollars.~~) The provisions of this section shall
7 not apply to any individual who is a licensed commercial pesticide
8 applicator. Commercial pesticide operator licenses shall expire
9 annually on a date set by rule by the director. License fees shall be
10 prorated where necessary to accommodate staggering of expiration dates
11 of a license or licenses.

12 **Sec. 6.** RCW 17.21.122 and 1991 c 109 s 32 are each amended to read
13 as follows:

14 It shall be unlawful for any person to act as a private-commercial
15 applicator without having obtained a private-commercial applicator
16 license from the director. Application for a private-commercial
17 applicator license shall be accompanied by a license fee of (~~fifty~~)
18 fifteen dollars before a license may be issued. Private-commercial
19 applicator licenses issued by the director shall be (~~five-year~~)
20 annual licenses expiring on a date set by rule by the director.
21 License fees shall be prorated where necessary to accommodate
22 staggering of expiration dates of a license or licenses.

23 **Sec. 7.** RCW 17.21.126 and 1991 c 109 s 33 are each amended to read
24 as follows:

25 It shall be unlawful for any person to act as a private applicator
26 without first complying with the certification requirements determined
27 by the director as necessary to prevent unreasonable adverse effects on
28 the environment, including injury to the applicator or other persons,

1 for that specific pesticide use. Certification standards to determine
2 the individual's competency with respect to the use and handling of the
3 pesticide or class of pesticides the private applicator is to be
4 certified to use shall be relative to hazards according to RCW
5 17.21.030 as now or hereafter amended. In determining these standards
6 the director shall take into consideration standards of the EPA and is
7 authorized to adopt by rule these standards. Application for private
8 applicator certification shall be accompanied by a license fee of
9 fifteen dollars before a certification may be issued. Individuals with
10 a valid certified applicator license, pest control consultant license,
11 or dealer manager license who qualify in the appropriate license
12 categories are exempt from this fee requirement provided that licensed
13 public operators exempted from that license fee requirement are not
14 exempted from the private applicator fee requirement. Private
15 applicator certification issued by the director shall expire annually
16 on a date set by rule by the director. License fees shall be prorated
17 where necessary to accommodate staggering of expiration dates of a
18 license or licenses.

19 **Sec. 8.** RCW 17.21.129 and 1991 c 109 s 34 are each amended to read
20 as follows:

21 Except as provided in RCW 17.21.203(1), it is unlawful for a person
22 to use or supervise the use of any pesticide which is restricted to use
23 by certified applicators, on small experimental plots for research
24 purposes when no charge is made for the pesticide and its application,
25 without a demonstration and research applicator's license.

26 A license fee of ~~((fifty))~~ fifteen dollars shall be paid before a
27 demonstration and research license may be issued. The demonstration
28 and research applicator license shall be ~~((a five year))~~ an annual
29 license expiring on a date set by rule by the director. License fees

1 shall be prorated where necessary to accommodate staggering of
2 expiration dates of a license or licenses.

3 **Sec. 9.** RCW 17.21.200 and 1989 c 380 s 52 are each amended to read
4 as follows:

5 The provisions of this chapter relating to commercial pesticide
6 applicator licenses and requirements for their issuance shall not apply
7 to any forest landowner, or his or her employees, applying pesticides
8 with ground apparatus or manually, on his or her own lands or any lands
9 or rights of way under his or her control or to any farmer owner of
10 ground apparatus applying pesticides for himself or herself or (~~other~~
11 ~~farmers~~) if applied on an occasional basis not amounting to a
12 principal or regular occupation without compensation other than trading
13 of personal services between producers of agricultural commodities on
14 the land of another person or to any grounds maintenance person
15 conducting grounds maintenance on an occasional basis not amounting to
16 a regular occupation. However, persons exempt under this section shall
17 not use pesticides restricted to use by certified applicators and shall
18 not advertise or publicly hold themselves out as pesticide applicators.

19 **Sec. 10.** RCW 17.21.910 and 1989 c 380 s 65 are each amended to
20 read as follows:

21 Unless revoked for cause by the director, any license issued under
22 the provisions of this chapter and in effect on June 7, 1961, shall
23 continue in full force and effect until its expiration date: PROVIDED,
24 That public operator, private commercial applicator and demonstration
25 and research applicator licenses in effect on December 31, 1985, shall
26 expire on December 31, 1990, and any public operator, private
27 commercial applicator and demonstration and research applicator
28 licenses issued after December 31, 1985, and in effect on December 31,

1 1986, shall expire on December 31, 1991. Unless revoked for cause, any
2 private commercial applicator and demonstration and research licenses
3 issued prior to the effective date of this act shall be valid until
4 their expiration date.