
SUBSTITUTE SENATE BILL 5913

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Hansen and Bailey).

Read first time March 6, 1991.

1 AN ACT Relating to providing urban property owners the option of
2 notifying persons of a pesticide application; amending RCW 17.21.020;
3 and adding a new section to chapter 17.21 RCW.

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

5 **Sec. 1.** RCW 17.21.020 and 1989 c 380 s 33 are each amended to read
6 as follows:

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

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

1 (2) "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 (3) "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 (4) "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 as a restricted use
21 pesticide or by the state as restricted to use by certified applicators
22 only.

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

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

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

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

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

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

13 (11) "Direct supervision" by certified private applicators shall
14 mean that the designated restricted use pesticide shall be applied for
15 purposes of producing any agricultural commodity on land owned or
16 rented by the applicator or the applicator's employer, by a competent
17 person acting under the instructions and control of a certified private
18 applicator who is available if and when needed, even though such
19 certified private applicator is not physically present at the time and
20 place the pesticide is applied. The certified private applicator shall
21 have direct management responsibility and familiarity of the pesticide,
22 manner of application, pest, and land to which the pesticide is being
23 applied. Direct supervision by all other certified applicators means
24 direct on-the-job supervision. Direct supervision of an aerial
25 apparatus means the pilot of the aircraft must be appropriately
26 certified.

27 (12) "Director" means the director of the department or a duly
28 authorized representative.

29 (13) "Engage in business" means any application of pesticides by
30 any person upon lands or crops of another.

1 (14) "EPA" means the United States environmental protection agency.

2 (15) "EPA restricted use pesticide" means any pesticide with
3 restricted uses as classified for restricted use by the administrator,
4 EPA.

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

7 (17) "Fungi" means all nonchlorophyll-bearing thallophytes (all
8 nonchlorophyll-bearing plants of lower order than mosses and
9 liverworts); for example, rusts, smuts, mildews, molds, yeasts, and
10 bacteria, except those on or in a living person or other animals.

11 (18) "Fungicide" means any substance or mixture of substances
12 intended to prevent, destroy, repel, or mitigate any fungi.

13 (19) "Herbicide" means any substance or mixture of substances
14 intended to prevent, destroy, repel, or mitigate any weed.

15 (20) "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, as, 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 (21) "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 (22) "Land" means all land and water areas, including airspace and
26 all plants, animals, structures, buildings, devices, and contrivances,
27 appurtenant to or situated on, fixed or mobile, including any used for
28 transportation.

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

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

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

8 (26) "Pest" means, but is not limited to, any insect, rodent,
9 nematode, snail, slug, weed, and any form of plant or animal life or
10 virus, except virus on or in a living person or other animal, which is
11 normally considered to be a pest, or which the director may declare to
12 be a pest.

13 (27) "Pesticide" means, but is not limited to:

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

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

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

27 (28) "Pesticide advisory board" means the pesticide advisory board
28 as provided for in this chapter.

29 (29) "Plant regulator" means any substance or mixture of substances
30 intended through physiological action, to accelerate or retard the rate

1 of growth or maturation, or to otherwise alter the behavior of
2 ornamental or crop plants or their produce, but shall not include
3 substances insofar as they are intended to be used as plant nutrients,
4 trace elements, nutritional chemicals, plant inoculants, or soil
5 amendments.

6 (30) "Private applicator" means a certified applicator who uses or
7 is in direct supervision of the use of (a) any EPA restricted use
8 pesticide; or (b) any restricted use pesticide restricted to use only
9 by certified applicators by the director, for the purposes of producing
10 any agricultural commodity and for any associated noncrop application
11 on land owned or rented by the applicator or the applicator's employer
12 or if applied without compensation other than trading of personal
13 services between producers of agricultural commodities on the land of
14 another person.

15 (31) "Private-commercial applicator" means a certified applicator
16 who uses or supervises the use of (a) any EPA restricted use pesticide
17 or (b) any restricted use pesticide restricted to use only by certified
18 applicators for purposes other than the production of any agricultural
19 commodity on lands owned or rented by the applicator or the
20 applicator's employer.

21 (32) "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 (33) "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 (34) "Snails or slugs" include all harmful mollusks.

2 (35) "Unreasonable adverse effects on the environment" means any
3 unreasonable risk to people or the environment taking into account the
4 economic, social, and environmental costs and benefits of the use of
5 any pesticide, or as otherwise determined by the director.

6 (36) "Weed" means any plant which grows where not wanted.

7 (37) "Residential property" includes property less than one acre
8 in size zoned as residential by a city, town, or county.

9 NEW SECTION. Sec. 2. A new section is added to chapter 17.21 RCW
10 to read as follows:

11 (1) When a pesticide is to be applied to public and private school
12 grounds, day care centers, parks, playgrounds, or residential property
13 by a certified applicator, the certified applicator shall at the option
14 of the owner or owner's representative: (a) Post the property; and/or
15 (b) make available to the owner or owner's representative a written
16 copy of the information, specifically health warnings to humans and
17 pets, contained on the label of the pesticide to be applied.

18 (2) If the owner or the owner's representative chooses to have the
19 property posted for a pesticide application, the certified applicator
20 shall provide signs to post the treated area.

21 (3) Signs shall be posted at the time of the application and for at
22 least the following twenty-four hours. For applications of pesticides
23 which have a reentry interval established by the environmental
24 protection agency, the applicator shall comply with the label
25 requirements. The owner or occupant of the property receiving the
26 application is responsible for the removal of the signs after the
27 posting period or applicable reentry interval.

28 (4) Signs shall include the name and telephone number of the
29 applicator of the pesticide.

1 (5) The director of the department of agriculture shall adopt rules
2 establishing the size and lettering requirements of signs.

3 (6) State and local health departments and mosquito control
4 districts when conducting mosquito control operations are exempt from
5 the posting requirements of this section.