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SENATE BILL 5913

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr, Hansen and Bailey.

Read first time March 4, 1991. Referred to Committee on Agriculture & Water Resources.

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: (a) Provide  
14 the owner or owner's representative the option of posting their  
15 property; and (b) make available to the owner or the owner's  
16 representative the pesticide label information.

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

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

27 (4) Signs shall include the name and telephone number of the  
28 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.