
SUBSTITUTE SENATE BILL 6100

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Newhouse, Snyder, Prentice and Fraser; by request of Department of Agriculture)

Read first time 1/20/94.

1 AN ACT Relating to pesticide application regulation; amending RCW
2 17.21.020, 17.21.030, 17.21.060, 17.21.065, 17.21.070, 17.21.080,
3 17.21.100, 17.21.110, 17.21.122, 17.21.126, 17.21.128, 17.21.129,
4 17.21.130, 17.21.132, 17.21.134, 17.21.150, 17.21.160, 17.21.170,
5 17.21.180, 17.21.190, 17.21.200, 17.21.203, 17.21.220, 17.21.230,
6 17.21.240, 17.21.260, 17.21.280, 17.21.290, 17.21.310, 17.21.360,
7 17.21.400, 17.21.410, 17.21.420, and 17.21.910; reenacting and amending
8 RCW 17.21.050; adding a new section to chapter 17.21 RCW; and
9 prescribing penalties.

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

11 **Sec. 1.** RCW 17.21.020 and 1992 c 176 s 1 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

15 (1) "Agricultural commodity" means any plant or part of a plant, or
16 animal, or animal product, produced by a person (including farmers,
17 ranchers, vineyardists, plant propagators, Christmas tree growers,
18 aquaculturists, floriculturists, orchardists, foresters, or other

1 comparable persons) primarily for sale, consumption, propagation, or
2 other use by people or animals.

3 (2) "Agricultural land" means land on which an agricultural
4 commodity is produced or land that is in a government-recognized
5 conservation reserve program. This definition does not apply to
6 private gardens where agricultural commodities are produced for
7 personal consumption.

8 (3) "Apparatus" means any type of ground, water, or aerial
9 equipment, device, or contrivance using motorized, mechanical, or
10 pressurized power and used to apply any pesticide on land and anything
11 that may be growing, habitating, or stored on or in such land, but
12 shall not include any pressurized handsized household device used to
13 apply any pesticide, or any equipment, device, or contrivance of which
14 the person who is applying the pesticide is the source of power or
15 energy in making such pesticide application, or any other small
16 equipment, device, or contrivance that is transported in a piece of
17 equipment licensed under this chapter as an apparatus.

18 ~~((+3))~~ (4) "Arthropod" means any invertebrate animal that belongs
19 to the phylum arthropoda, which in addition to insects, includes allied
20 classes whose members are wingless and usually have more than six legs;
21 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

22 ~~((+4))~~ (5) "Certified applicator" means any individual who is
23 licensed as a commercial pesticide applicator, commercial pesticide
24 operator, public operator, private-commercial applicator, demonstration
25 and research applicator, or certified private applicator, or any other
26 individual who is certified by the director to use or supervise the use
27 of any pesticide which is classified by the EPA or the director as a
28 restricted use pesticide ~~((or by the state as restricted to use by~~
29 ~~certified applicators only))~~.

30 ~~((+5))~~ (6) "Commercial pesticide applicator" means any person who
31 engages in the business of applying pesticides to the land of another.

32 ~~((+6))~~ (7) "Commercial pesticide operator" means any employee of
33 a commercial pesticide applicator who uses or supervises the use of any
34 pesticide and who is required to be licensed under provisions of this
35 chapter.

36 ~~((+7))~~ (8) "Defoliant" means any substance or mixture of
37 substances intended to cause the leaves or foliage to drop from a plant
38 with or without causing abscission.

1 (~~(8)~~) (9) "Department" means the Washington state department of
2 agriculture.

3 (~~(9)~~) (10) "Desiccant" means any substance or mixture of
4 substances intended to artificially accelerate the drying of plant
5 tissues.

6 (~~(10)~~) (11) "Device" means any instrument or contrivance intended
7 to trap, destroy, control, repel, or mitigate pests(~~(, or to destroy,~~
8 ~~control, repel, or mitigate fungi, nematodes, or such other pests, as~~
9 ~~may be designated by the director)~~), but not including equipment used
10 for the application of pesticides when sold separately from the
11 pesticides.

12 (~~(11)~~) (12) "Direct supervision" by certified private applicators
13 shall mean that the designated restricted use pesticide shall be
14 applied for purposes of producing any agricultural commodity on land
15 owned or rented by the applicator or the applicator's employer, by a
16 competent person acting under the instructions and control of a
17 certified private applicator who is available if and when needed, even
18 though such certified private applicator is not physically present at
19 the time and place the pesticide is applied. The certified private
20 applicator shall have direct management responsibility and familiarity
21 of the pesticide, manner of application, pest, and land to which the
22 pesticide is being applied. Direct supervision by all other certified
23 applicators means direct on-the-job supervision and shall require that
24 the certified applicator be physically present at the application site
25 and that the person making the application be in voice and visual
26 contact with the certified applicator at all times during the
27 application. Direct supervision of an aerial apparatus means the pilot
28 of the aircraft must be appropriately certified.

29 (~~(12)~~) (13) "Director" means the director of the department or a
30 duly authorized representative.

31 (~~(13)~~) (14) "Engage in business" means any application of
32 pesticides by any person upon lands or crops of another.

33 (~~(14)~~) (15) "EPA" means the United States environmental
34 protection agency.

35 (~~(15)~~) (16) "EPA restricted use pesticide" means any pesticide
36 (~~(with restricted uses as)~~) classified for restricted use by the
37 administrator, EPA.

38 (~~(16)~~) (17) "FIFRA" means the federal insecticide, fungicide and
39 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

1 ~~((17))~~ (18) "Fumigant" means any pesticide product or combination
2 of products that is a vapor or gas or forms a vapor or gas on
3 application and whose method of pesticidal action is through the
4 gaseous state.

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

9 ~~((18))~~ (20) "Fungicide" means any substance or mixture of
10 substances intended to prevent, destroy, repel, or mitigate any fungi.

11 ~~((19))~~ (21) "Herbicide" means any substance or mixture of
12 substances intended to prevent, destroy, repel, or mitigate any weed or
13 other higher plant.

14 ~~((20))~~ (22) "Immediate service call" means a landscape
15 application to satisfy an emergency customer request for service, or a
16 treatment to control a pest to landscape plants.

17 ~~((21))~~ (23) "Insect" means any ~~((of the numerous))~~ small
18 invertebrate animal~~((s))~~, in any life stage, whose ~~((bodies are more or~~
19 ~~less obviously))~~ adult form is segmented~~((~~) and which ~~((for the most~~
20 ~~part))~~ generally belongs to the class insecta, ~~((comprising))~~ comprised
21 of six-legged, usually winged forms, as, for example, beetles, bugs,
22 bees, and flies~~((~~and)). The term insect shall also apply to other
23 allied classes of arthropods whose members are wingless and usually
24 have more than six legs, for example, spiders, mites, ticks,
25 centipedes, and isopod crustaceans.

26 ~~((22))~~ (24) "Insecticide" means any substance or mixture of
27 substances intended to prevent, destroy, repel, or mitigate any
28 insect~~((s which may be present in any environment whatsoever))~~.

29 ~~((23))~~ (25) "Land" means all land and water areas, including
30 airspace and all plants, animals, structures, buildings, devices, and
31 contrivances, appurtenant to or situated on, fixed or mobile, including
32 any used for transportation.

33 ~~((24))~~ (26) "Landscape application" means an application by a
34 certified applicator of any EPA registered pesticide to any exterior
35 landscape plants found around residential property, commercial
36 properties such as apartments or shopping centers, parks, golf courses,
37 ((or)) schools including nursery schools and licensed day cares, or
38 cemeteries or similar areas. This definition shall not apply to: (a)
39 Applications made by certified private applicators; (b) ((state and

1 ~~local health departments and mosquito control districts when conducting~~
2 ~~mosquito control operations~~) mosquito abatement, gypsy moth
3 eradication, or similar wide-area pest control programs sponsored by
4 governmental entities; and (c) commercial pesticide applicators making
5 structural applications.

6 ((+25+)) (27) "Nematocide" means any substance or mixture of
7 substances intended to prevent, destroy, repel, or mitigate nematodes.

8 ((+26+)) (28) "Nematode" means any invertebrate animal of the
9 phylum nemathelminthes and class nematoda, that is, unsegmented round
10 worms with elongated, fusiform, or saclike bodies covered with cuticle,
11 and inhabiting soil, water, plants or plant parts((7)). Nematodes may
12 also be called nemas or eelworms.

13 ((+27+)) (29) "Person" means any individual, partnership,
14 association, corporation, or organized group of persons whether or not
15 incorporated.

16 ((+28+)) (30) "Pest" means, but is not limited to, any insect,
17 rodent, nematode, snail, slug, weed, and any form of plant or animal
18 life or virus, except virus, bacteria, or other microorganisms on or in
19 a living person or other animal or in or on processed food or beverages
20 or pharmaceuticals, which is normally considered to be a pest, or which
21 the director may declare to be a pest.

22 ((+29+)) (31) "Pesticide" means, but is not limited to:

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

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

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

37 ((+30+)) (32) "Pesticide advisory board" means the pesticide
38 advisory board as provided for in this chapter.

1 (~~(31)~~) (33) "Plant regulator" means any substance or mixture of
2 substances intended through physiological action, to accelerate or
3 retard the rate of growth or maturation, or to otherwise alter the
4 behavior of ornamental or crop plants or their produce, but shall not
5 include substances insofar as they are intended to be used as plant
6 nutrients, trace elements, nutritional chemicals, plant inoculants, or
7 soil amendments.

8 (~~(32)~~) (34) "Private applicator" means a certified applicator who
9 uses or is in direct supervision of the use of (~~(a)~~) any pesticide
10 classified by the EPA or the director as a restricted use pesticide(~~(~~
11 ~~or (b) any restricted use pesticide restricted to use only by certified~~
12 ~~applicators by the director)~~), for the purposes of producing any
13 agricultural commodity and for any associated noncrop application on
14 land owned or rented by the applicator or the applicator's employer or
15 if applied without compensation other than trading of personal services
16 between producers of agricultural commodities on the land of another
17 person.

18 (~~(33)~~) (35) "Private-commercial applicator" means a certified
19 applicator who uses or supervises the use of (~~(a)~~) any pesticide
20 classified by the EPA or the director as a restricted use pesticide
21 (~~(or (b) any restricted use pesticide restricted to use only by~~
22 ~~certified applicators)~~) for purposes other than the production of any
23 agricultural commodity on lands owned or rented by the applicator or
24 the applicator's employer.

25 (~~(34)~~) (36) "Residential property" includes property less than
26 one acre in size zoned as residential by a city, town, or county, but
27 does not include property zoned as agricultural or agricultural
28 homesites.

29 (~~(35)~~) (37) "Restricted use pesticide" means any pesticide or
30 device which, when used as directed or in accordance with a widespread
31 and commonly recognized practice, the director determines, subsequent
32 to a hearing, requires additional restrictions for that use to prevent
33 unreasonable adverse effects on the environment including people,
34 lands, beneficial insects, animals, crops, and wildlife, other than
35 pests.

36 (~~(36)~~) (38) "Rodenticide" means any substance or mixture of
37 substances intended to prevent, destroy, repel, or mitigate rodents, or
38 any other vertebrate animal which the director may declare by rule to
39 be a pest.

1 (~~(37)~~) (39) "Snails or slugs" include all harmful mollusks.

2 (~~(38)~~) (40) "Unreasonable adverse effects on the environment"
3 means any unreasonable risk to people or the environment taking into
4 account the economic, social, and environmental costs and benefits of
5 the use of any pesticide, or as otherwise determined by the director.

6 (~~(39)~~) (41) "Weed" means any plant which grows where it is not
7 wanted.

8 **Sec. 2.** RCW 17.21.030 and 1989 c 380 s 34 are each amended to read
9 as follows:

10 The director shall administer and enforce the provisions of this
11 chapter and rules adopted (~~(hereunder)~~) under this chapter.

12 (1) The director (~~(shall)~~) may adopt rules:

13 (a) Governing the loading, mixing, application and use, or
14 prohibiting the loading, mixing, application, or use(~~(, or possession~~
15 ~~for use,)~~) of any pesticide;

16 (b) Governing the time when, and the conditions under which
17 restricted use pesticides shall or shall not be used in different
18 areas(~~(, which areas may be)~~) as prescribed by the director(~~(,)~~) in the
19 state;

20 (c) Providing that any or all restricted use pesticides shall be
21 purchased, possessed or used only under permit of the director and
22 under the director's direct supervision in certain areas and/or under
23 certain conditions or in certain quantities of concentrations; however,
24 any person licensed to sell such pesticides may purchase and possess
25 such pesticides without a permit;

26 (d) Establishing recordkeeping requirements for licensees,
27 permittees, and certified applicators;

28 (e) Fixing and collecting examination fees and fees for
29 recertification course sponsorship;

30 (f) Establishing testing procedures, licensing classifications, and
31 requirements for licenses and permits, and criteria for assigning
32 recertification credit to and procedures for department approval of
33 courses as provided by this chapter;

34 (g) Concerning training by employers for employees who mix and load
35 pesticides;

36 (h) Concerning minimum performance standards for spray boom and
37 nozzles used in pesticide applications to minimize spray drift and

1 establishing a list of approved spray nozzles that meet these
2 standards; and

3 ~~((g))~~ (i) Fixing and collecting permit fees.

4 (2) The director may adopt any other rules necessary to carry out
5 the purpose and provisions of this chapter.

6 **Sec. 3.** RCW 17.21.050 and 1989 c 380 s 36 and 1989 c 175 s 58 are
7 each reenacted and amended to read as follows:

8 All hearings for the imposition of a civil penalty and/or the
9 suspension, denial, or revocation of a license, certification, or
10 permit issued under the provisions of this chapter shall be subject to
11 the provisions of chapter 34.05 RCW concerning adjudicative
12 proceedings.

13 **Sec. 4.** RCW 17.21.060 and 1961 c 249 s 6 are each amended to read
14 as follows:

15 The director may issue subpoenas to compel the attendance of
16 witnesses and/or production of books, documents, and records anywhere
17 in the state in any hearing affecting the authority or privilege
18 granted by a license, certification, or permit issued under the
19 provisions of this chapter. Witnesses shall be entitled to fees for
20 attendance and travel as provided for in chapter 2.40 RCW as enacted or
21 hereafter amended.

22 **Sec. 5.** RCW 17.21.065 and 1967 c 177 s 17 are each amended to read
23 as follows:

24 The director may classify licenses to be issued under the
25 provisions of this chapter(~~(, such))~~). These classifications may
26 include but are not (~~(be))~~ limited to pest control operators,
27 ornamental sprayers, agricultural crop sprayers or right of way
28 sprayers; separate classifications may be specified as to ground,
29 aerial, or manual methods used by any licensee to apply pesticides.

30 Each such classification shall be subject to separate testing
31 procedures and requirements(~~(: PROVIDED, That))~~). No person shall be
32 required to pay an additional license fee if such person desires to be
33 licensed in one or all of the license classifications provided for by
34 the director under the authority of this section, except as provided
35 for in RCW 17.21.110.

1 **Sec. 6.** RCW 17.21.070 and 1993 sp.s. c 19 s 4 are each amended to
2 read as follows:

3 It shall be unlawful for any person to engage in the business of
4 applying pesticides to the land of another without a commercial
5 pesticide applicator license. Application for the license shall be
6 accompanied by a fee of one hundred thirty-six dollars and in addition
7 a fee of eleven dollars for each apparatus, exclusive of one, used by
8 the applicant in the application of pesticides: PROVIDED, That the
9 provisions of this section shall not apply to any person employed only
10 to operate any apparatus used for the application of any pesticide, and
11 in which such person has no financial interest or other control over
12 such apparatus other than its day to day mechanical operation for the
13 purpose of applying any pesticide. (~~Commercial pesticide applicator~~
14 ~~licenses shall expire annually on a date set by rule by the director.~~
15 ~~License fees shall be prorated where necessary to accommodate~~
16 ~~staggering of expiration dates of a license or licenses.))~~

17 **Sec. 7.** RCW 17.21.080 and 1989 c 380 s 38 are each amended to read
18 as follows:

19 Application for a commercial pesticide applicator license provided
20 for in RCW 17.21.070 shall be on a form prescribed by the director
21 (~~and~~).

22 (1) The application shall include the following information:

23 (~~(1)~~) (a) The full name of the (~~person~~) individual applying for
24 such license.

25 (~~(2)~~) (b) The full name of the business the individual represents
26 with the license.

27 (c) If the applicant is an individual, receiver, trustee, firm,
28 partnership, association, corporation, or any other organized group of
29 persons whether incorporated or not, the full name of each member of
30 the firm or partnership, or the names of the officers of the
31 association, corporation or group.

32 (~~(3)~~) (d) The principal business address of the applicant in the
33 state (~~and~~) or elsewhere.

34 (~~(4)~~) (e) The name of a person whose domicile is in the state,
35 and who is authorized to receive and accept services of summons and
36 legal notice of all kinds for the applicant.

37 (~~(5)~~) (f) The model, make, horsepower, and size of any apparatus
38 used by the applicant to apply pesticides.

1 (~~(6)~~) (g) License classification or classifications for which the
2 applicant is applying (~~for~~).

3 (~~(7)~~) (h) A list of the names of individuals allowed to apply
4 pesticides under the authority of the commercial applicator's license.

5 (i) Any other necessary information prescribed by the director.

6 (2) Any changes to the information provided on the prescribed
7 commercial applicator form shall be reported by the business to the
8 department within thirty days of the change.

9 **NEW SECTION. Sec. 8.** A new section is added to chapter 17.21 RCW
10 to read as follows:

11 (1) No commercial pesticide applicator shall allow a person to
12 apply pesticides under the authority of the commercial pesticide
13 applicator's license unless the commercial pesticide applicator has, by
14 mail or facsimile transmissions, submitted the name to the department
15 on a form prescribed by the department as provided in RCW 17.21.080(2).
16 The department shall maintain a list for each commercial pesticide
17 applicator of persons authorized to apply pesticides under the
18 authority of the commercial pesticide applicator's license.

19 (2) Violations of this chapter by a person acting as an employee,
20 agent, or otherwise acting on behalf of or under the license authority
21 of a commercial pesticide applicator, may, in the discretion of the
22 department, be treated as a violation by the commercial pesticide
23 applicator.

24 **Sec. 9.** RCW 17.21.100 and 1992 c 173 s 1 are each amended to read
25 as follows:

26 (1) (~~(Pesticide)~~) Certified applicators licensed under the
27 provisions of this chapter (~~and~~), persons required to be licensed
28 under this chapter, all persons applying pesticides to more than one
29 acre of agricultural land in a calendar year, including public entities
30 engaged in roadside spraying of pesticides, and all other persons
31 making landscape applications of pesticides to types of property listed
32 in RCW 17.21.410 (1)(b), (c), (d), and (e), shall keep records for each
33 application which shall include the following information:

34 (a) The location of the land where the pesticide was applied(~~-~~);*i*

35 (b) The year, month, day and beginning and ending time of the
36 application of the pesticide each day the pesticide was applied(~~-~~);*i*

1 (c) The product name used on the registered label and the United
2 States environmental protection agency registration number, if
3 applicable, of the pesticide which was applied((-))i

4 (d) The crop or site to which the pesticide was applied((-))i

5 (e) The amount of pesticide applied per acre or other appropriate
6 measure((-))i

7 (f) The concentration of pesticide that was applied((-))i

8 (g) The number of acres, or other appropriate measure, to which the
9 pesticide was applied((-))i

10 (h) The licensed applicator's name, address, and telephone number
11 and the name of the individual or individuals making the
12 application((-)) and their license number, if applicable;

13 (i) The direction and estimated velocity of the wind ((at)) during
14 the time the pesticide was applied((:—PROVIDED,—That)). This
15 subsection (i) shall not apply to applications of baits in bait
16 stations and pesticide applications within structures((-))i and

17 (j) Any other reasonable information required by the director in
18 rule.

19 (2)(a) The ((records)) required information shall be ((updated))
20 recorded on the same day that a pesticide is applied.

21 (b) A commercial pesticide applicator who applies a pesticide to an
22 agricultural crop or agricultural lands shall provide a copy of the
23 records required under subsection (1) of this section for the
24 application to the owner, or to the lessee if applied on behalf of the
25 lessee, of the lands to which the pesticide is applied. Records
26 provided by a commercial pesticide applicator to the owner or lessee of
27 agricultural lands under this subsection need not be provided on a form
28 adopted by the department.

29 (3) The records required under this section shall be maintained and
30 preserved by the licensed pesticide applicator or such other person or
31 entity applying the pesticides for no less than seven years from the
32 date of the application of the pesticide to which such records refer.
33 If the pesticide was applied by a commercial pesticide applicator to
34 the agricultural crop or agricultural lands of a person who employs one
35 or more employees, as "employee" is defined in RCW 49.70.020, the
36 records shall also be kept by the employer for a period of seven years
37 from the date of the application of the pesticide to which the records
38 refer.

1 (4)(a) The pesticide records shall be readily accessible to the
2 department for inspection. Copies of the records shall be provided on
3 request to: The department; the department of labor and industries;
4 treating health care personnel initiating diagnostic testing or therapy
5 for a patient with a suspected case of pesticide poisoning; the
6 department of health; the pesticide incident reporting and tracking
7 review panel; and, in the case of an industrial insurance claim filed
8 under Title 51 RCW with the department of labor and industries, the
9 employee or the employee's designated representative. In addition, the
10 director may require the submission of the records on a routine basis
11 within thirty days of the application of any restricted use pesticide
12 in prescribed areas controlling the use of the restricted use
13 pesticide. When a request for records is made under this subsection by
14 treating health care personnel and the record is required for
15 determining treatment, copies of the record shall be provided
16 immediately. For all other requests, copies of the record shall be
17 provided within seventy-two hours.

18 (b) Copies of records provided to a person or entity under this
19 subsection (4) shall, if so requested, be provided on a form adopted
20 under subsection (7) of this section. Information for treating health
21 care personnel shall be made immediately available by telephone, if
22 requested, with a copy of the records provided within twenty-four
23 hours.

24 (5) If a request for a copy of the record is made under this
25 section from an applicator referred to in subsection (1) of this
26 section and the applicator refuses to provide a copy, the requester may
27 notify the department of the request and the applicator's refusal.
28 Within seven working days, the department shall request that the
29 applicator provide the department with all pertinent copies of the
30 records, except that in a medical emergency the request shall be made
31 within two working days. The applicator shall provide copies of the
32 records to the department within twenty-four hours after the
33 department's request.

34 (6) The department shall include inspection of the records required
35 under this section as part of any on-site inspection conducted under
36 this chapter on agricultural lands. The inspection shall determine
37 whether the records are readily transferable to a form adopted by the
38 department and are readily accessible to employees. However, no person
39 subject to a department inspection may be inspected under this

1 subsection (6) more than once in any calendar year, unless a previous
2 inspection has found recordkeeping violations. If recordkeeping
3 violations are found, the department may conduct reasonable multiple
4 inspections, pursuant to rules adopted by the department. Nothing in
5 this subsection (6) limits the department's inspection of records
6 pertaining to pesticide-related injuries, illnesses, fatalities,
7 accidents, or complaints.

8 (7) The department of agriculture and the department of labor and
9 industries shall jointly adopt, by rule, forms that satisfy the
10 information requirements of this section.

11 **Sec. 10.** RCW 17.21.110 and 1993 sp.s. c 19 s 5 are each amended to
12 read as follows:

13 It shall be unlawful for any person to act as an employee of a
14 commercial pesticide applicator and apply pesticides manually or as the
15 operator directly in charge of any apparatus which is licensed or
16 should be licensed under the provisions of this chapter for the
17 application of any pesticide, without having obtained a commercial
18 pesticide operator license from the director. The commercial pesticide
19 operator license shall be in addition to any other license or permit
20 required by law for the operation or use of any such apparatus.
21 Application for a commercial operator license shall be accompanied by
22 a license fee of thirty-three dollars. The provisions of this section
23 shall not apply to any individual who is a licensed commercial
24 pesticide applicator. (~~Commercial pesticide operator licenses shall~~
25 ~~expire annually on a date set by rule by the director. License fees~~
26 ~~shall be prorated where necessary to accommodate staggering of~~
27 ~~expiration dates of a license or licenses.~~)

28 **Sec. 11.** RCW 17.21.122 and 1993 sp.s. c 19 s 6 are each amended to
29 read as follows:

30 It shall be unlawful for any person to act as a private-commercial
31 pesticide applicator without having obtained a private-commercial
32 pesticide applicator license from the director. Application for a
33 private-commercial pesticide applicator license shall be accompanied by
34 a license fee of seventeen dollars before a license may be issued.
35 (~~Private commercial applicator licenses issued by the director shall~~
36 ~~be annual licenses expiring on a date set by rule by the director.~~)

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

3 **Sec. 12.** RCW 17.21.126 and 1993 sp.s. c 19 s 7 are each amended to
4 read as follows:

5 It shall be unlawful for any person to act as a private pesticide
6 applicator without first complying with the certification requirements
7 determined by the director as necessary to prevent unreasonable adverse
8 effects on the environment, including injury to the pesticide
9 applicator or other persons, for ~~((that))~~ each specific pesticide use.

10 (1) Certification standards to determine the individual's
11 competency with respect to the use and handling of the pesticide or
12 class of pesticides for which the private pesticide applicator is ~~((to~~
13 ~~be))~~ certified ~~((to use))~~ shall be relative to hazards ~~((according to~~
14 ~~RCW 17.21.030 as now or hereafter amended))~~ of the particular type of
15 application, class of pesticides, or handling procedure. In
16 determining these standards the director shall take into consideration
17 standards of the EPA and is authorized to adopt ~~((by rule))~~ these
18 standards by rule.

19 (2) Application for private pesticide applicator certification
20 shall be accompanied by a license fee of seventeen dollars ~~((before a~~
21 ~~certification may be issued))~~. Individuals with a valid certified
22 applicator license, pest control consultant license, or dealer manager
23 license who qualify in the appropriate state-wide or agricultural
24 license categories are exempt from ~~((this))~~ the private applicator fee
25 requirement ~~((provided that))~~. However, licensed public pesticide
26 operators, otherwise exempted from ~~((that))~~ the public pesticide
27 operator license fee requirement, are not also exempted from the
28 private pesticide applicator fee requirement. ~~((Private applicator~~
29 ~~certification issued by the director shall expire annually on a date~~
30 ~~set by rule by the director. License fees shall be prorated where~~
31 ~~necessary to accommodate staggering of expiration dates of a license or~~
32 ~~licenses.))~~

33 **Sec. 13.** RCW 17.21.128 and 1986 c 203 s 9 are each amended to read
34 as follows:

35 (1) The director may renew any certification or license issued
36 under authority of this chapter ~~((under the classification for which~~
37 ~~such applicant is licensed or certificated))~~ subject to the

1 ~~recertification standards ((as determined by the director))~~ identified
2 in subsection (2) of this section or an examination ((regarding))
3 requiring new knowledge that may be required to apply pesticides.

4 (2) Except as provided in subsection (3) of this section, all
5 individuals licensed under this chapter shall meet the recertification
6 standards identified in (a) or (b) of this subsection, every five
7 years, in order to qualify for continuing licensure.

8 (a) Licensed pesticide applicators may qualify for continued
9 licensure through accumulation of recertification credits.

10 (i) Private pesticide applicators shall accumulate a minimum of
11 twenty department-approved credits every five years with no more than
12 eight credits allowed per year;

13 (ii) All other license types established under this chapter shall
14 accumulate a minimum of forty department-approved credits every five
15 years with no more than fifteen credits allowed per year.

16 (b) Certified pesticide applicators may qualify for continued
17 licensure through meeting the examination requirements necessary to
18 become licensed in those areas in which the licensee operates.

19 (3) At the termination of a licensee's five-year recertification
20 period, the director may waive the requirements identified in
21 subsection (2) of this section if the licensee can demonstrate that he
22 or she is meeting comparable recertification standards through another
23 state or jurisdiction or through a federal environmental protection
24 agency approved government agency plan.

25 **Sec. 14.** RCW 17.21.129 and 1993 sp.s. c 19 s 8 are each amended to
26 read as follows:

27 Except as provided in RCW 17.21.203(~~((1))~~), it is unlawful for a
28 person to use or supervise the use of any experimental use pesticide or
29 any restricted use pesticide ((which is restricted to use by certified
30 applicators,)) on small experimental plots for research purposes when
31 no charge is made for the pesticide and its application(~~((7))~~) without a
32 demonstration and research applicator's license.

33 ~~((A license fee of seventeen dollars shall be paid before a~~
34 ~~demonstration and research license may be issued. The demonstration~~
35 ~~and research applicator license shall be an annual license expiring on~~
36 ~~a date set by rule by the director. License fees shall be prorated~~
37 ~~where necessary to accommodate staggering of expiration dates of a~~
38 ~~license or licenses.))~~

1 (1) Application for a demonstration and research certification
2 shall be accompanied by a license fee of seventeen dollars.

3 (2) Persons licensed in accordance with this section are exempt
4 from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

5 **Sec. 15.** RCW 17.21.130 and 1989 c 380 s 46 are each amended to
6 read as follows:

7 Any license, permit, or certification provided for in this chapter
8 may be revoked or suspended, and any license, permit, or certification
9 application may be denied by the director for cause. If the director
10 suspends a license under this chapter with respect to activity of a
11 continuing nature under chapter 34.05 RCW, the director may elect to
12 suspend the license for a subsequent license year during a period that
13 coincides with the period commencing thirty days before and ending
14 thirty days after the date of the incident or incidents giving rise to
15 the violation.

16 **Sec. 16.** RCW 17.21.132 and 1991 c 109 s 35 are each amended to
17 read as follows:

18 Any person applying for a license or certification authorized under
19 the provisions of this chapter shall file an application on a form
20 prescribed by the director.

21 (1) The application shall state the license or certification and
22 the classification(s) for which the applicant is applying ((for)) and
23 the method in which the pesticides are to be applied.

24 (2) For all classes of licenses except private applicator, all
25 applicants shall be at least eighteen years of age on the date that the
26 application is made. Applicants for a private pesticide applicator
27 license shall be at least sixteen years of age on the date that the
28 application is made.

29 (3) Application for a license to apply pesticides shall be
30 accompanied by the required fee. No license may be issued until the
31 required license fee has been received by the department. License fees
32 shall be prorated where necessary to accommodate staggering of
33 expiration dates of a license or licenses.

34 (4) Each classification of license issued under this chapter shall
35 expire annually on a date set by rule by the director. License
36 expiration dates may be staggered for administrative purposes. Renewal
37 applications shall be filed on or before the applicable expiration date

1 (~~set by rule by the director. License fees shall be prorated where~~
2 ~~necessary to accommodate staggering of expiration dates of a license or~~
3 ~~licenses~~)).

4 **Sec. 17.** RCW 17.21.134 and 1989 c 380 s 45 are each amended to
5 read as follows:

6 (1) The director shall not issue a commercial pesticide applicator
7 license until the applicant, if he or she is the sole owner and manager
8 of the business(~~, or if there is more than one owner, the person~~
9 ~~managing the business,~~) has passed (~~an examination~~) examinations in
10 all classifications that the business operates. If there is more than
11 one owner or the owner does not participate in the pesticide
12 application activities, the person managing the pesticide application
13 activities of the business shall be licensed in all classifications
14 that the business operates. The director shall not issue a commercial
15 pesticide operator, public operator, private commercial applicator, or
16 demonstration and research applicator license until the applicant has
17 passed an examination(~~(. Such examinations shall require the applicant~~
18 ~~to demonstrate to the director)~~) demonstrating knowledge of:

19 (a) How to apply pesticides under the classification for which he
20 or she has applied (~~for~~), manually or with the various apparatuses
21 that he or she may operate;

22 (b) The nature and effect of pesticides he or she may apply under
23 such classifications; and

24 (c) Any other matter the director determines to be a necessary
25 subject for examination.

26 (2) The director shall charge an examination fee established (~~by~~
27 ~~the director~~) by rule when an examination is necessary before a
28 license may be issued or when application for such license and
29 examination is made at other than a regularly scheduled examination
30 date (~~as provided for by the director~~)).

31 (3) The director may prescribe separate testing procedures and
32 requirements for each license.

33 **Sec. 18.** RCW 17.21.150 and 1989 c 380 s 48 are each amended to
34 read as follows:

35 A person who has committed any of the following acts is declared to
36 be in violation of this chapter:

- 1 (1) Made false or fraudulent claims through any media,
2 misrepresenting the effect of materials or methods to be utilized;
- 3 (2) Applied worthless or improper (~~materials~~) pesticides;
- 4 (3) Operated a faulty or unsafe apparatus;
- 5 (4) Operated in a faulty, careless, or negligent manner;
- 6 (5) Refused or neglected to comply with the provisions of this
7 chapter, the rules adopted hereunder, or of any lawful order of the
8 director including a final order of the director directing payment of
9 a civil penalty. In an adjudicative proceeding arising from the
10 department's denial of a license for failure to pay a civil penalty the
11 subject shall be limited to whether the payment was made and the
12 proceeding may not be used to collaterally attack the final order;
- 13 (6) Refused or neglected to keep and maintain the pesticide
14 application records required by rule, or to make reports when and as
15 required;
- 16 (7) Made false or fraudulent records, invoices, or reports;
- 17 (8) (~~Engaged in the business of applying a pesticide without~~
18 ~~having an appropriately licensed person in direct "on the job"~~
19 ~~supervision~~) Acted as a certified applicator without having provided
20 direct supervision to an unlicensed person as defined in RCW
21 17.21.020(12);
- 22 (9) Operated an unlicensed apparatus or an apparatus without a
23 license plate issued for that particular apparatus;
- 24 (10) Used fraud or misrepresentation in making an application for
25 a license or renewal of a license;
- 26 (11) Is not qualified to perform the type of pest control under the
27 conditions and in the locality in which he or she operates or has
28 operated, regardless of whether or not he or she has previously passed
29 a pesticide license examination;
- 30 (12) Aided or abetted a licensed or an unlicensed person to evade
31 the provisions of this chapter, combined or conspired with such a
32 licensed or an unlicensed person to evade the provisions of this
33 chapter, or allowed one's license to be used by an unlicensed person;
- 34 (13) Knowingly made false, misleading or erroneous statements or
35 reports during or after an inspection concerning any infestation or
36 infection of pests found on land or in connection with any pesticide
37 complaint or investigation;
- 38 (14) Impersonated any state, county or city inspector or official;
39 (~~or~~)

1 (15) ~~((Used or supervised the use of a))~~ Applied a restricted use
2 pesticide ((restricted to use by certified applicators)) without having
3 a certified applicator in direct supervision(~~(-))~~;

4 (16) Operated a commercial pesticide application business: (a)
5 Without an individual licensed as a commercial pesticide applicator or
6 (b) with a licensed commercial pesticide applicator not licensed in the
7 classification or classifications in which the business operates; or

8 (17) Operated as a commercial pesticide applicator without meeting
9 the financial responsibility requirements including not having a
10 properly executed financial responsibility insurance certificate or
11 surety bond form on file with the department.

12 **Sec. 19.** RCW 17.21.160 and 1989 c 380 s 49 are each amended to
13 read as follows:

14 The director shall not issue a commercial pesticide applicator
15 license until the applicant has furnished evidence of financial
16 responsibility ~~((with the director consisting))~~.

17 (1) Evidence of financial responsibility shall consist of either
18 ((of)) a surety bond; or a liability insurance policy or certification
19 thereof, protecting persons who may suffer legal damages as a result of
20 the operations of the applicant((:- PROVIDED, That such)). The surety
21 bond or liability insurance policy need not apply to damages or injury
22 to agricultural crops, plants or land being worked upon by the
23 applicant. The director shall not accept a surety bond or liability
24 insurance policy except from authorized insurers in this state or if
25 placed as a surplus line as provided for in chapter 48.15 RCW((,- as
26 enacted or hereafter amended)).

27 (2) Evidence of financial responsibility shall be supplied to the
28 department on a financial responsibility insurance certificate or
29 surety bond form (blank forms supplied by the department to the
30 applicant).

31 **Sec. 20.** RCW 17.21.170 and 1983 c 95 s 7 are each amended to read
32 as follows:

33 The following requirements apply to the amount of bond or insurance
34 required for commercial applicators:

35 (1) The amount of the surety bond or liability insurance, as
36 provided for in RCW 17.21.160, shall be not less than fifty thousand
37 dollars for property damage and public liability insurance, each

1 separately, and including loss or damage arising out of the actual use
2 of any pesticide. The surety bond or liability insurance shall be
3 maintained at not less than that sum at all times during the licensed
4 period.

5 (2) The property damage portion of this requirement may be waived
6 by the director if it can be demonstrated by the applicant that all
7 applications performed under this license occur under confined
8 circumstances and on property owned or leased by the applicant.

9 (3) The director shall be notified ten days before any reduction of
10 insurance coverage at the request of the applicant or cancellation of
11 the surety bond or liability insurance by the surety or insurer and by
12 the insured.

13 (4) The total and aggregate of the surety and insurer for all
14 claims is limited to the face of the bond or liability insurance
15 policy. The director may accept a liability insurance policy or surety
16 bond in the proper sum which has a deductible clause in an amount not
17 exceeding five thousand dollars for all applicators for the total
18 amount of liability insurance or surety bond required by this section,
19 but if the applicant has not satisfied the requirement of the
20 deductible amount in any prior legal claim the deductible clause shall
21 not be accepted by the director unless the applicant furnishes the
22 director with a surety bond or liability insurance which shall satisfy
23 the amount of the deductible as to all claims that may arise in his
24 application of pesticides.

25 **Sec. 21.** RCW 17.21.180 and 1989 c 380 s 50 are each amended to
26 read as follows:

27 The commercial pesticide applicator license shall, whenever the
28 licensee's surety bond or insurance policy is reduced below the
29 requirements of RCW 17.21.170 or whenever the commercial applicator has
30 not supplied evidence of financial responsibility, as required by RCW
31 17.21.160 and 17.21.170, by the expiration date of the previous policy
32 or surety bond, be automatically suspended until such licensee's surety
33 bond or insurance policy again meets the requirements of RCW
34 17.21.170(~~(:—PROVIDED, That)~~). In addition, the director may pick up
35 such licensee's license plates during such period of automatic
36 suspension and return them only at such time as the ((said)) licensee
37 has furnished ((the director with)) written proof that he or she is in
38 compliance with the provisions of RCW 17.21.170.

1 **Sec. 22.** RCW 17.21.190 and 1991 c 263 s 1 are each amended to read
2 as follows:

3 Any person suffering property loss or damage resulting from the use
4 or application by others of any pesticide shall file with the director
5 a verified report of loss (~~(setting)~~).

6 (1) The report shall set forth, so far as known to the claimant,
7 the following:

8 ~~((1))~~ (a) The name and address of the claimant~~((-))~~;

9 ~~((2))~~ (b) The type, kind, property alleged to be injured or
10 damaged~~((-))~~;

11 ~~((3))~~ (c) The name of the person applying the pesticide and
12 allegedly responsible~~((-))~~; and

13 ~~((4))~~ (d) The name of the owner or occupant of the property for
14 whom such application of the pesticide was made.

15 (2) The report shall be filed within thirty days from the time that
16 the property loss or damage becomes known to the claimant. If a
17 growing crop is alleged to have been damaged, the report shall be filed
18 prior to harvest of fifty percent of that crop, unless the loss or
19 damage was not then known. The department shall establish time periods
20 by rule to determine investigation response time. Time periods shall
21 range from immediate to forty-eight hours to initiate an investigation,
22 depending on the severity of the damage.

23 (3) Any person filing a report of loss under this section shall
24 cooperate with the department in conducting an investigation of such a
25 report and shall provide the department or authorized representatives
26 of the department access to any affected property and any other
27 necessary information relevant to the report. If a claimant refuses to
28 cooperate with the department, the report shall not be acted on by the
29 department.

30 (4) The filing of ~~((such))~~ a report or the failure to file ~~((such))~~
31 a report need not be alleged in any complaint which might be filed in
32 a court of law, and the failure to file the report shall not be
33 considered any bar to the maintenance of any criminal or civil action.

34 (5) The failure to file ~~((such))~~ a report shall not be a violation
35 of this chapter. However, if the person failing to file such report is
36 the only one suffering loss from such use or application of a pesticide
37 by a pesticide applicator or operator, the director may refuse to act
38 upon the complaint.

1 **Sec. 23.** RCW 17.21.200 and 1992 c 170 s 9 are each amended to read
2 as follows:

3 The provisions of this chapter relating to commercial pesticide
4 applicator licenses and requirements for their issuance shall not apply
5 to:

6 (1) Any forest landowner, or his or her employees, applying
7 pesticides with ground apparatus or manually, on his or her own lands
8 or any lands or rights of way under his or her control; ~~or ((to))~~

9 (2) Any farmer owner of ground apparatus applying pesticides for
10 himself or herself or if applied on an occasional basis not amounting
11 to a principal or regular occupation without compensation other than
12 trading of personal services between producers of agricultural
13 commodities on the land of another person; ~~or ((to))~~

14 (3) Any grounds maintenance person conducting grounds maintenance
15 on an occasional basis not amounting to a regular occupation; ~~or~~

16 (4) Persons who apply pesticides as an incidental part of their
17 business, such as dog grooming services or such other businesses as
18 shall be identified by the director.

19 However, persons exempt under this section shall not use restricted
20 use pesticides (~~restricted to use by certified applicators~~) and shall
21 not advertise or publicly hold themselves out as pesticide applicators.

22 **Sec. 24.** RCW 17.21.203 and 1981 c 297 s 23 are each amended to
23 read as follows:

24 ~~((1))~~ The licensing provisions of this chapter shall not apply to
25 research personnel of federal, state, county, or municipal agencies
26 when performing pesticide research in their official capacities(~~(+~~
27 ~~PROVIDED, That~~), however when such persons are applying restricted use
28 pesticides (~~restricted to use by certified applicators~~), they shall
29 be licensed as public operators.

30 ~~((2) The licensing provisions of this chapter shall not apply to~~
31 ~~any other person when applying pesticides to small experimental plots~~
32 ~~for research purposes when no charge is made for the pesticide and its~~
33 ~~application: PROVIDED, That if such persons are not provided for in~~
34 ~~subsection (1) of this section and are applying pesticides restricted~~
35 ~~to use by certified applicators, they shall be required to be licensed~~
36 ~~as demonstration and research applicators in accordance with RCW~~
37 ~~17.21.129, but shall be exempt from the requirements of RCW 17.21.160,~~
38 ~~17.21.170, and 17.21.180.))~~

1 **Sec. 25.** RCW 17.21.220 and 1993 sp.s. c 19 s 9 are each amended to
2 read as follows:

3 (1) All state agencies, municipal corporations, and public
4 utilities or any other governmental agency shall be subject to the
5 provisions of this chapter and rules adopted thereunder concerning the
6 application of pesticides.

7 (2) It shall be unlawful for any employee of a state agency,
8 municipal corporation, public utility, or any other government agency
9 to use or to supervise the use of any restricted use pesticide
10 (~~((restricted to use by certified applicators))~~), or any pesticide by
11 means of an apparatus, without having obtained a public operator
12 license from the director. A license fee of seventeen dollars shall be
13 paid before a public operator license may be issued. The license fee
14 shall not apply to public operators licensed and working in the health
15 vector field. (~~((Public operator licenses shall expire annually on a
16 date set by rule by the director. License fees shall be prorated where
17 necessary to accommodate staggering of expiration dates of a license or
18 licenses.))~~) The public operator license shall be valid only when the
19 operator is acting as an employee of a government agency.

20 (3) The jurisdictional health officer or his or her duly authorized
21 representative is exempt from this licensing provision when applying
22 pesticides that are not restricted (~~((to use by certified applicators))~~)
23 use pesticides to control pests other than weeds.

24 (4) Such agencies, municipal corporations and public utilities
25 shall be subject to legal recourse by any person damaged by such
26 application of any pesticide, and such action may be brought in the
27 county where the damage or some part thereof occurred.

28 **Sec. 26.** RCW 17.21.230 and 1989 c 380 s 54 are each amended to
29 read as follows:

30 (1) There is hereby created a pesticide advisory board consisting
31 of (~~((three))~~) four licensed pesticide applicators residing in the state
32 (one shall be licensed to operate agricultural ground apparatus, one
33 shall be an urban landscape applicator, one shall be licensed to
34 operate aerial apparatus, and one shall be licensed for structural pest
35 control), one licensed pest control consultant, one licensed pesticide
36 dealer manager, one entomologist in public service, one toxicologist in
37 public service, one pesticide coordinator from Washington State
38 University, one member from the agricultural chemical industry, one

1 member from the food processing industry, one member representing
2 agricultural labor, one health care practitioner in private practice,
3 ~~((one))~~ two members from the environmental community, one producer of
4 aquacultural products, and two producers of agricultural crops or
5 products on which pesticides are applied ~~((or which may be affected by~~
6 ~~the application of pesticides))~~.

7 (2) Such members shall be appointed by the ~~((governor))~~ director
8 for terms of four years and may be appointed for successive four-year
9 terms at the discretion of the ~~((governor. The governor))~~ director.
10 The terms shall be staggered so that approximately one-fourth of the
11 terms expire on June 30 of each calendar year. In making appointments,
12 the director shall seek nominations from affected agricultural and
13 environmental groups. The director may remove any member of the
14 pesticide advisory board prior to the expiration of his or her term of
15 appointment for cause. The pesticide advisory board shall also include
16 the following nonvoting members: The director of the department of
17 labor and industries or a duly authorized representative, the
18 environmental health specialist from the ~~((division of health of the~~
19 ~~department of social and health services))~~ department of health, the
20 ~~((supervisor))~~ assistant director of the ~~((chemical))~~ pesticide
21 management division of the department, and the directors, or their
22 appointed representatives, of the department~~((s))~~ of ~~((wildlife,~~
23 ~~fisheries))~~ fish and wildlife, natural resources, and ecology.

24 **Sec. 27.** RCW 17.21.240 and 1989 c 380 s 55 are each amended to
25 read as follows:

26 Upon the death, resignation or removal for cause of any member of
27 the pesticide advisory board, the ~~((governor))~~ director shall attempt
28 to fill such vacancy, within thirty days of its creation, for the
29 remainder of its term in the manner herein prescribed for appointment
30 to the board.

31 **Sec. 28.** RCW 17.21.260 and 1989 c 380 s 57 are each amended to
32 read as follows:

33 The pesticide advisory board shall elect one of its members
34 ~~((chairman))~~ as chair. The members of the board shall meet at such
35 time and at such place as shall be specified by the call of the
36 director, ~~((chairman))~~ chair, or a majority of the board.

1 **Sec. 29.** RCW 17.21.280 and 1989 c 380 s 59 are each amended to
2 read as follows:

3 All moneys collected under the provisions of this chapter shall be
4 paid to the director and deposited in the agricultural local fund, RCW
5 43.23.230, for use exclusively in the enforcement of this chapter(~~(:~~
6 ~~PROVIDED, That)~~). All fees, fines, forfeitures and penalties collected
7 or assessed by a district court because of the violation of a state law
8 shall be remitted as provided in chapter 3.62 RCW ((as now exists or is
9 later amended))).

10 **Sec. 30.** RCW 17.21.290 and 1989 c 380 s 60 are each amended to
11 read as follows:

12 All licensed apparatuses shall be identified by a license plate
13 furnished by the director, at no cost to the licensee, which plate
14 shall be affixed in a location and manner upon such apparatus as
15 prescribed (~~(by the director)~~) in rule.

16 **Sec. 31.** RCW 17.21.310 and 1967 c 177 s 16 are each amended to
17 read as follows:

18 Any person who shall violate any provisions or requirements of this
19 chapter or rules adopted (~~(hereunder)~~) under this chapter for which a
20 penalty is not otherwise provided shall be deemed guilty of a
21 misdemeanor and guilty of a gross misdemeanor for any second and
22 subsequent offense(~~(:~~~~PROVIDED, That)~~). Any offense committed more
23 than five years after a previous conviction shall be considered a first
24 offense.

25 **Sec. 32.** RCW 17.21.360 and 1993 sp.s. c 19 s 10 are each amended
26 to read as follows:

27 Each registration and licensing fee under this chapter is increased
28 by a surcharge of six dollars to be deposited in the agricultural local
29 fund, provided that an additional one-time surcharge of five dollars
30 shall be collected on January 1, 1990. The revenue raised by the
31 imposition of this surcharge shall be used to assist in funding the
32 pesticide incident reporting and tracking review panel, department of
33 (~~(social and health services⁴)~~) health's pesticide investigations, and
34 the department of agriculture's pesticide investigations.

1 **Sec. 33.** RCW 17.21.400 and 1992 c 176 s 2 are each amended to read
2 as follows:

3 (1)(a) A certified applicator making a landscape application shall
4 display the name and telephone number of the applicator or the
5 applicator's employer on any power application apparatus. The
6 applicator shall also carry the material safety data sheet for each
7 pesticide being applied.

8 (b) A certified applicator making a right of way application shall
9 display the name and telephone number of the applicator or the
10 applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION"
11 on any power application apparatus. The applicator shall also carry
12 the material safety data sheet for each pesticide being applied.

13 (2) If a certified applicator receives a written request for
14 information on a landscape or right of way spray application, the
15 applicator shall provide the requestor with the name or names of each
16 pesticide applied and (a) a copy of the material safety data sheet for
17 each pesticide; or (b) a pesticide fact sheet for each pesticide as
18 developed or approved by the department.

19 (3) The director shall adopt rules establishing the size and
20 lettering requirements of the apparatus display signs required under
21 this section.

22 **Sec. 34.** RCW 17.21.410 and 1992 c 176 s 5 are each amended to read
23 as follows:

24 (1) A certified applicator making a landscape application to:

25 (a) Residential property shall at the time of the application place
26 a marker at the usual point of entry to the property. If the
27 application is made to an isolated spot that is not a substantial
28 portion of the property, the applicator shall only be required to place
29 a marker at the application site. If the application is in a fenced or
30 otherwise isolated backyard, no marker is required.

31 (b) Commercial properties such as apartments or shopping centers
32 shall at the time of application place a marker in a conspicuous
33 location at or near each site being treated.

34 (c) A golf course shall at the time of the application place a
35 marker at the first tee and tenth tee or post the information in a
36 conspicuous location such as on a central message board.

1 ~~((e))~~ (d) A school, nursery school, or licensed day care shall at
2 the time of the application place a marker at each primary point of
3 entry to the school grounds.

4 ~~((d))~~ (e) A park, cemetery, rest stop, or similar property as may
5 be defined in rule shall at the time of the application place a marker
6 at each primary point of entry.

7 (2) An individual making a landscape application to a school
8 grounds, nursery school, or licensed day care, and not otherwise
9 covered by subsection (1) of this section, shall be required to comply
10 with the posting requirements in subsection (1)(d) of this section.

11 (3) The marker shall be a minimum of four inches by five inches.
12 It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the
13 headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger
14 size requirements for markers may be established in rule for specific
15 applications. The company name and service mark with the applicator's
16 telephone number where information can be obtained shall be included
17 between the headline and the footer on the marker. The letters and
18 service marks shall be printed in colors contrasting to the background.

19 ~~((3))~~ (4) The property owner or tenant shall remove the marker
20 ~~((the day following the application))~~ according to the schedule
21 established in rule. A commercial applicator is not liable for the
22 removal of markers by unauthorized persons or removal outside the
23 designated removal time.

24 ~~((4))~~ (5) A certified applicator who complies with this section
25 cannot be held liable for personal property damage or bodily injury
26 resulting from markers that are placed as required.

27 **Sec. 35.** RCW 17.21.420 and 1992 c 176 s 3 are each amended to read
28 as follows:

29 (1) The department shall develop a list of pesticide-sensitive
30 individuals. The list shall include any person with a documented
31 pesticide sensitivity who submits information to the department on an
32 application form developed by the department indicating the person's
33 pesticide sensitivity.

34 (2) An applicant for inclusion on the pesticide-sensitive list may
35 apply to the department at any time and shall provide the department,
36 on the department's form, the name, street address, and telephone
37 number of the applicant and of each property owner with property
38 abutting the applicant's principal place of residence. The pesticide

1 sensitivity of an individual shall be certified by a physician who
2 holds a valid license to practice medicine in this state. The lands
3 listed on an application for inclusion on the pesticide-sensitive list
4 shall constitute the pesticide notification area for that applicant.
5 For highway or road right of ways, a property abutting shall mean that
6 portion of the property within one-half mile of the principal place of
7 residence.

8 (3) A person whose name has been included on the pesticide-
9 sensitive list shall notify the department of a need to update the list
10 as soon as possible after: (a) A change of address or telephone
11 number; (b) a change in ownership of property abutting a pesticide-
12 sensitive individual; (c) a change in the applicant's condition; or (d)
13 the sensitivity is deemed to no longer exist.

14 (4) The pesticide-sensitive list shall expire on December 31 of
15 each year. The department shall distribute application forms for the
16 new list at a reasonable time prior to the expiration of the current
17 list, including mailing an application form to each person on the
18 current list at the address given by the person in his or her most
19 recent application. Persons desiring to be placed on or remain on the
20 list shall submit a new application each year.

21 (5) The department shall distribute the list by ~~((February 15))~~
22 January 1 and June 15 of each year to all certified applicators likely
23 to make landscape applications. The list shall provide multiple
24 methods of accessing the information so that certified applicators
25 making landscape applications or right of way applications are able to
26 easily determine what properties and individuals require notification
27 for a specific application. An updated list shall be distributed
28 whenever deemed necessary by the department. Certified applicators may
29 request a list of newly registered individuals that have been added to
30 the list since the last distribution. Registered individuals shall
31 receive verification that their name has been placed on the list.

32 **Sec. 36.** RCW 17.21.910 and 1992 c 170 s 10 are each amended to
33 read as follows:

34 Unless revoked for cause by the director, any license issued under
35 the provisions of this chapter and in effect on June 7, 1961, shall
36 continue in full force and effect until its expiration date: PROVIDED,
37 That public pesticide operator, private commercial pesticide applicator
38 and demonstration and research pesticide applicator licenses in effect

1 on December 31, 1985, shall expire on December 31, 1990, and any public
2 operator, private commercial applicator and demonstration and research
3 pesticide applicator licenses issued after December 31, 1985, and in
4 effect on December 31, 1986, shall expire on December 31, 1991. Unless
5 revoked for cause, any private commercial pesticide applicator and
6 demonstration and research pesticide applicator licenses issued prior
7 to June 11, 1992, shall be valid until their expiration date.

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