

HOUSE BILL REPORT

SSB 6100

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to pesticide application regulation.

Brief Description: Modifying the Washington pesticide application act.

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

Brief History:

Reported by House Committee on:
Commerce & Labor, February 16, 1994, DPA.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer and Veloria.

Staff: Chris Cordes (786-7117).

Background: The Department of Agriculture administers and enforces the Washington Pesticide Application Act. Among other requirements, the act provides for licensure of pesticide applicators, recordkeeping of pesticide applications, posting of certain sites that are being treated for pesticides, and notices to pesticide-sensitive individuals.

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), administered by the federal Environmental Protection Agency, establishes many requirements for pesticide applications, including requirements for worker safety. In Washington, the FIFRA requirements are administered through the Department of Agriculture.

The Pesticide Advisory Board advises the director of the department on problems relating to the use and application of pesticides. The 15 member board is appointed by the Governor.

Summary of Amended Bill:

Rulemaking authority

The requirement that Department of Agriculture must adopt rules to administer and enforce the requirements for pesticide applications is changed to be permissive authority to adopt rules.

In addition to rules governing the application and use of pesticides, the rules may govern the loading and mixing of pesticides, requirements for training employees who mix and load pesticides, minimum standards for spray booms and nozzles used in pesticide applications, establishment of fees for recertification course sponsorship, and criteria regarding recertification courses.

Pesticide application recordkeeping

The persons who are required to keep records of pesticide applications include those who are required to be licensed as an applicator and those who make landscape applications to commercial properties such as apartments and shopping centers, golf courses, schools, nursery schools, licensed day cares, parks, cemeteries, rest stops or similar properties.

Posting of landscape applications

In addition to other requirements for posting treated sites, certified applicators making pesticide applications on commercial properties such as apartments or shopping centers must post a marker in a conspicuous location near the treated site. All persons making pesticide applications at school grounds, nursery schools, or licensed day cares must post markers at each primary point of entry.

The department may require markers that are larger than the minimum prescribed size for specific applications.

The requirement that posted markers be removed the day following pesticide application is changed to require removal according to a schedule adopted in rules.

Notice to pesticide-sensitive persons

For the purposes of determining the property abutting the property of a person on the pesticide-sensitive list who must receive notice of pesticide applications, the abutting property for highway or road right of ways is the property within one-half mile of the principal place of residence.

The list of pesticide-sensitive persons must be distributed by January 1 and June 15 instead of February 15 and June 15 of each year.

Pesticide applicator licenses

Applications for commercial pesticide applicator licenses must include additional information, including the name of the business that the individual applicant represents with the license and a list of the names of individuals allowed to apply pesticides under the authority of the license. Changes to the information must be reported to the department within 30 days of the change.

Persons applying for licenses must be at least 18 years old, except that persons at least 16 years old may apply for a private pesticide applicator license.

Changes are made to clarify that a person who is sole owner and manager of a pesticide application business must pass an examination, but if the owner does not participate in the pesticide application activities, then the manager of those activities must be licensed.

In addition to other exemptions, the commercial pesticide applicator license requirements do not apply to persons who apply pesticides as an incidental part of their business, such as dog grooming services or other businesses identified by the department.

Applicator recertification standards

Pesticide applicator licenses may be renewed if the individual licensee meets established recertification standards every five years. Private pesticide applicators must have 20 recertification credits each five years and all other licensees must have 40 credits every five years. Credit requirements may be waived if the licensee is meeting comparable standards through another state or jurisdiction. Certified pesticide applicators must meet examination requirements to qualify for continued licensure.

Financial responsibility requirements

The property damage portion of the surety bond or insurance requirements for commercial applicators may be waived if the applicant can demonstrate that all applications performed under the license occur under confined circumstances and on the applicant's property.

If the commercial applicator has not provided evidence of financial responsibility by the expiration date of the

previous policy or bond, the license will be automatically suspended until the requirements are met.

Enforcement

A commercial pesticide applicator may not permit any person to apply pesticides under the authority of his or her license unless the person's name is submitted to the department. The department may treat a violation of the pesticide application requirements by an employee or other agent of a commercial pesticide applicator as a violation by the applicator.

If a pesticide applicator license is suspended for a violation relating to a continuing activity, the department may choose to suspend the license for a subsequent license year during the 30-day period before and after the date of the violation.

In addition to other violations, it is a violation if a person refuses or neglects to comply with a final order of the department directing payment of a civil penalty, or if a business operates as a commercial pesticide applicator without meeting the financial responsibility requirements.

Pesticide Advisory Board

The Pesticide Advisory Board is changed to add three new members: an urban landscape applicator, a member of the environmental community, and a producer of aquacultural products. The members of the board will be appointed by the director of the department, instead of by the Governor. Members' terms will be staggered so that approximately one-fourth of the terms will expire on June 30 each year.

Definitions

For purposes of determining agricultural lands to which the pesticide recordkeeping provisions apply, "agricultural land" means land on which agricultural commodities are produced or land in a conservation reserve program. It does not apply to private gardens maintained for personal consumption.

The requirement for "direct supervision" is clarified to require, for certified applicators other than certified private applicators, that the certified applicator be physically present at the site and be in voice and visual contact with the person making the application.

A "fumigant" is a pesticide that is a vapor or gas or that forms a vapor or gas on application and which acts through the gaseous state.

Additional categories are added to the definition of "landscape application." It includes the application of pesticides to commercial properties such as apartments or shopping centers, and to nursery schools, licensed day cares, and cemeteries. The exemption from "landscape application" for public health departments and mosquito control districts who are conducting mosquito control is changed to also include conducting gypsy moth eradication or similar wide-area pest control programs.

Amended Bill Compared to Substitute Bill: The amended bill deletes the section that made the misdemeanor and gross misdemeanor penalties apply when another penalty was not otherwise provided by law.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is needed to give the Department of Agriculture better tools to enforce the Pesticide Application Act and to increase protection of people and the environment. Many interested parties participated in discussions and agreed to the components of the bill, including the recordkeeping and posting requirements and the regulation of mixing and loading pesticides. This bill strengthens the Department of Agriculture's ability to carry out its duties. An amendment clarifying the local government's role in licensing persons who make landscape applications is needed.

Testimony Against: None.

Witnesses: (In favor) Senator Marilyn Rasmussen, prime sponsor; Dan Locke, Department of Labor and Industries; and William Brookreson, Department of Agriculture. (In favor of local license amendment) Mike Ryherd, Seattle/King County Department of Public Health. (In favor of original bill) Enid Layes, Washington Agribusiness Coalition; Jim Halstrom, Washington State Horticultural Association; and Gary Smith, Independent Business Association.