

HOUSE BILL REPORT

E2SHB 1527

As Passed House

March 19, 1997

Title: An act relating to pesticide registration and licensing.

Brief Description: Regulating pesticides.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Chandler and Linville; by request of Department of Agriculture).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/12/97, 2/17/97 [DPS];

Appropriations: 3/4/97, 3/7/97 [DP2S(w/o sub AGECE)].

Floor Activity:

Passed House: 3/19/97, 68-29.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Delvin; Koster; Mastin and Sump.

Minority Report: Without recommendation. Signed by 4 members: Representatives Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper and Regala.

Staff: Kenneth Hirst (786-7105).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 26 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member;

Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Kenney; Kessler; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Minority Report: Without recommendation. Signed by 3 members: Representatives Keiser; Linville and Regala.

Staff: Nancy Stevenson (786-7137).

Background: Pesticide Registration. The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency. In general, a pesticide cannot be distributed in this state or transported in intrastate commerce unless it is registered with the state's Department of Agriculture.

Registration Fees. The fee paid by a person for registering a pesticide with the department is dependent on the number of pesticides the person registers annually. It ranges from \$105 per registration for each of the first 25 pesticides a person registers to \$75 per registration for each 101st to 150th registered and \$50 per registration for each additional registration beyond the 150th pesticide. A non-refundable application fee of \$200 is charged for each application for registering a label for a special local need. The fee for such a special local need registration is \$200 per year. These fees regarding special local need registrations are dedicated to assisting in funding the department's activities regarding special local need registrations. All of these registration fees are deposited in the Agricultural Local Fund for funding pesticide registration activities.

A special registration fee of \$10 per registered product applies to any product labeled for home and garden use only. This fee is dedicated to assisting in funding the Pesticide Incident Reporting and Tracking (PIRT) Panel. A surcharge of \$6 is added to each pesticide registration and licensing fee. This surcharge is dedicated to assisting in funding the PIRT Panel and the pesticide investigations of the Department of Agriculture and those of the Department of Health. However, beginning with the 1994 supplemental budget, the fees dedicated to the support of the PIRT Panel and investigations by the Department of Health have been retained by the Department of Agriculture and other funding has been provided to the PIRT Panel and the Department of Health.

Pesticide Licenses. Persons who distribute pesticides other than those labeled for home and garden use only, must be licensed as pesticide dealers under the state's Pesticide Control Act. The owner or supervisor of a pesticide distribution outlet is licensed as a dealer manager. Pesticide consultants are also licensed under the Pesticide Control Act.

With certain exceptions, those who apply pesticides commercially are licensed or certified under the state's Pesticide Application Act. The director of the Department of Agriculture may require any of these licensed persons to be re-certified as to their knowledge regarding pesticides and the application of pesticides. This requirement may be met by securing a certain number of approved continuing education credits over a 5-year period or by taking a licensing examination. For most licenses governed by this act, 40 approved credits must be accumulated in five years with not more than 15 in any one year.

Monies collected from civil penalties imposed under the Pesticide Application Act are deposited in the agricultural local fund and used for the enforcement of the act.

Summary of Bill: Pesticide Registration Fees. The variable fee schedule set by statute for registering pesticides with the department and the annual \$200 registration fee for registering pesticides for special local use are replaced by a flat annual fee of \$145 per registration. Repealed are the dedication of a \$10 registration fee to the support of the PIRT Panel, the \$6 surcharge on pesticide registrations and licenses, and the \$200 non-refundable application fee for applications for registrations for special local needs.

Licensing Fees. Annual licensing fees for persons licensed under the state's Pesticide Control and Pesticide Application Acts are increased. The licensing fee for a pesticide dealer is increased to \$50 from the current level of \$36, which includes the \$6 surcharge. The fees for a dealer manager and a public pest control consultant are each increased to \$25 from \$21. For a pest control consultant, it is increased to \$45 from \$36; for a commercial applicator, \$170 from \$142; and for a commercial operator, \$50 from \$39. For private-commercial applicators, private pesticide applicators, demonstration and research applicators, and public operators, the fees are each increased to \$25 from \$23. The fee for licensing a pesticide apparatus is increased to \$20 from \$17.

The authority of the director to require re-certification of a licensee's pesticide knowledge every five years for those licensed under the Pesticide Application Act is extended to those licensed under the Pesticide Control Act as well. If continuing education is used for this re-certification, 40 approved credits must be accumulated with not more than 15 credits in any one year.

Pilot Project. A pilot project is established to provide a license for persons to apply restricted use herbicides for controlling weeds in Ferry and Okanogan counties. The pilot project expires December 31, 2002. The license is called a limited private applicator's license and it permits the licensee to apply herbicides to control weeds on his or her own non-production agricultural land and on the non-production agricultural land of another person if it is done without compensation other than the trading of personal services. The application of herbicides to aquatic sites is not permitted

under such a license. The application and examination requirements, as well as the fee, for a limited private applicator are the same as for a private applicator; however, the continuing education requirements are altered for this category of license. A person who successfully completes these requirements is deemed to have met the credit accumulation requirements for private applicators.

Administration. Monies collected from civil penalties imposed under the Pesticide Control and Pesticide Application Acts are to be deposited in the general fund. The director of agriculture is to appoint a presidents' advisory council composed of the presidents of state agricultural organizations to advise the director regarding the Pesticide Control and Pesticide Application Acts.

The date by which the Department of Agriculture must submit its annual report to the Legislature regarding its pesticide related activities, including food monitoring for pesticide residues, is changed from December 1, to February 1. The report no longer includes a listing of the pesticides for which testing was not done. It is to list the pesticides for which testing was done. Provisions throughout the Pesticide Control and Pesticide Application Acts which facilitated the changing of licenses of various durations to annual licenses, and facilitated the staggering of the expiration dates for the licenses, are repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Sections 1, 3, 8, 9, 15, 17, and 18 of the bill take effect 90 days after the regular session. These sections expressly authorize re-certification requirements for persons licensed under the Pesticide Control Act, delay the date that a report must be submitted to the Legislature, and make technical changes to statutes. All other sections of the bill take effect January 1, 1998.

Testimony For: (Agriculture & Ecology) (1) The Department of Agriculture's pesticide program was cut when the department had to accommodate a 30 percent reduction in general fund support in 1993-95 and a subsequent across-the-board cut. Just carrying forward the costs of the current program requires more revenue than the program is receiving. The increased data requirements imposed by the U.S. Environmental Protection Agency for special local needs (SLN) registrations used primarily for crops considered to be minor crops-- at the national level and the increased number of requests for these SLN registrations, mean the program needs still more funding. The bill is needed to provide that funding. (2) Even the increased funding provided by the bill will not address the demands likely to be faced by the state in responding to the requirements of the Federal Food Quality Act of 1996. The role of the state will change in response to that act. (3) The program needs at least \$500,000 in additional funding. If the portion to be provided by the increase in

registration fees in the original bill is reduced, the difference should be provided by some other source, but not from a staggered registration fee schedule. (4) The public benefits provided by the department's program warrant general fund or toxics fund support for at least some part of the program. (5) The staff to be added to the registration and compliance portions of the pesticide program are needed. These parts of the program provide the public's first line of defense in ensuring the wise use of pesticides. (6) The current mix of general fund and fee support for the program is appropriate because it requires those who use the products to bear some of their indirect costs. (7) Those who manufacture household products that must be registered as pesticides— support a flat registration fee, but at \$130 per registration not \$165 per registration.

(Appropriations) The department's program is underfunded and the \$130 is not enough. This is the first time in eight years that the fees have been increased. Two FTEs are needed for registration and two FTEs are needed for compliance. The fee should remain at \$130 as set by the substitute bill.

Testimony Against: (Agriculture & Ecology) None.

(Appropriations) None.

Testified: (Agriculture & Ecology) Jim Jesernig and Mary Beth Lang, Department of Agriculture; Dan Coyne, American Crop Protection Association; Mike Schwisow, Washington State Potato Commission; Heather Rainey, Washington Friends of Farms and Forests; and John Perkins (in favor). Steve Gano, Chemical Specialty Manufacturer's Association (in favor with a \$130 per registration fee).

(Appropriations) Dan Coyle, American Crop Protection Association (pro/with amendment); Mary Beth Lang, Department of Agriculture (pro/with amendment); and Steve Gano, Chemical Manufacturers (pro/with substitute bill).