

ANALYSIS OF HB 1998

House Agriculture & Ecology Committee
1997

February 26,

BACKGROUND:

Pesticide Registration & Use. *The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. (1 USCS úú 136 et seq.) 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 (EPA). (7 USCS úú 136(a).) 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. (RCW 15.58.050.) The use of pesticides in this state is also regulated by the Department.*

For the purposes of the state's pesticide laws, the term "pesticide" is defined broadly. It includes: a substance intended to prevent, destroy, control, repel, or mitigate a pest or intended to be used as a plant regulator, defoliant or desiccant; and a spray adjuvant (such as a wetting agent or spreading agent), with or without toxic properties of its own, intended to be used with a pesticide as an aid to its application or effect and sold in a container separate from that of the pesticide with which it is to be used. The pests these products are designed to control are also defined broadly to include any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus that are pests, except a virus on or in a living person or other animal. (RCW 15.58.030 and 17.21.020.)

Some pesticides may be used only by persons who are licensed or certified by the Director of Agriculture to use them or supervise their use. They are the pesticides classified by the EPA or the state's Department of Agriculture as restricted use pesticides. (RCW 17.21.020(5)&(37).)

Pesticide Sensitive List. *A person whose sensitivity to pesticides has been certified by a licensed physician may, upon request, be added to a pesticide sensitive list maintained by the Department of Agriculture. The person's residential street address and that of the property abutting the person's residential address constitute a pesticide notification area for the person. (RCW 17.21.420.) If a person licensed or certified to use pesticides under the state's pesticide application laws (called a certified applicator-) makes a landscape or right-of-way application of pesticides to that pesticide notification area, the certified operator must notify the person. (RCW 17.21.430.)*

Landscape Applications - Markers. A certified applicator who makes a landscape application of pesticides must place a marker regarding the application on the property if the property is: residential property; commercial property; a golf course; or a park, cemetery, rest stop, or similar property. If the application is in a fenced or otherwise isolated backyard of a residence, no marker is required. If the application is on a golf course, posting in a conspicuous location such as on a central message board is accepted. (RCW 17.21.410(1).) Any individual making a landscape application of pesticides to a school grounds, nursery school, or licensed day care must also post such a marker. (RCW 17.21.410(2).)

The marker must be a minimum of four inches by five inches and must have the words "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FORMORE INFORMATION PLEASE CALL" as the footer. Larger size requirements for markers may be established by rule for specific applications. (RCW 17.21.410(3).) The property owner or tenant must remove the marker according to the schedule established by rule. A commercial applicator is not liable for the removal of markers by unauthorized persons or removal outside the designated removal time. (RCW 17.21.410(4).)

Pesticide Records. The state's pesticide application laws require that the following persons keep records regarding their pesticide applications: certified applicators, persons required to be licensed under the pesticide application laws, and persons applying pesticides to more than one acre of agricultural land in a year. (RCW 17.21.100(1).) Among the types of information that must be maintained for the outdoor applications is the direction and estimated velocity of the wind during the time the pesticide is applied. (RCW 17.21.100(1)(h).)

SUMMARY:

Pesticide Sensitive List. Use of the pesticide sensitive list is expanded. The residential and employment addresses of a person on the list constitute the pesticide notification area for the person with regard to indoor applications of pesticides. If a certified applicator makes an indoor application of pesticides in a building as or on behalf of the owner, operator, or manager of the building and the building address is the residential or employment address of a person on the pesticide sensitive list, the applicator must notify the person of the application. Notification is provided in the same manner as currently provided for to persons on the list for other applications of pesticides. (Sections 1(23), 3 and 4.)

Applications in Publicly Owned Buildings - Markers. If a person licensed or certified under the pesticide application law makes an indoor application of pesticides in a publicly owned building and makes the application on behalf of the owner, operator, or manager of the building, the person must place a marker at the principal entrances to the building. The marker must indicate that the building is to be treated and that information regarding the material applied is available upon request. It must list the business name and telephone number of the person making the application. The marker must remain in place until after the pesticide is applied and until the expiration of any re-entry interval established for the pesticide. (Section 5.)

The information that must be made available upon request must include: the federal registration number of the pesticide applied, the active ingredient of the pesticide applied, the rate of application and amount applied, the site of the application, and the applicator's license

number. The information must be provided without charge. (Section 5.)

Application Records. The records that a licensed applicator must maintain regarding the application of pesticides are modified with regard to an indoor application made by or on behalf of the owner, operator, or manager of a building. If the application is made in a building that is normally and obviously open to the general public during normal business hours, the records must now state whether the application area will be ventilated to the outdoors during the 12 hours immediately following the application and during any re-entry interval for the pesticide that is applied. (Sections 1(30) and 2.) Indoor applications– do not mean applications of pesticides made in the crawl space beneath a building or to the applicator’s own office or residence. (Section 1(23).)