
SENATE BILL 5515

State of Washington

55th Legislature

1997 Regular Session

By Senators Morton, Rasmussen and Swecker; by request of Department of Agriculture

Read first time 01/29/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to pesticide registration and licensing; amending
2 RCW 15.58.040, 15.58.070, 15.58.170, 15.58.180, 15.58.200, 15.58.210,
3 15.58.220, 15.58.420, 17.21.070, 17.21.110, 17.21.122, 17.21.126,
4 17.21.129, 17.21.132, 17.21.220, and 17.21.350; adding a new section to
5 chapter 15.58 RCW; repealing RCW 15.58.245, 17.21.910, 15.58.415, and
6 17.21.360; and providing an effective date.

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

8 **Sec. 1.** RCW 15.58.040 and 1996 c 188 s 4 are each amended to read
9 as follows:

10 (1) The director shall administer and enforce the provisions of
11 this chapter and rules adopted under this chapter. All the authority
12 and requirements provided for in chapter 34.05 RCW (Administrative
13 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in the
14 adoption of rules including those requiring due notice and a hearing
15 for the adoption of permanent rules.

16 (2) The director is authorized to adopt appropriate rules for
17 carrying out the purpose and provisions of this chapter, including but
18 not limited to rules providing for:

1 (a) Declaring as a pest any form of plant or animal life or virus
2 which is injurious to plants, people, animals (domestic or otherwise),
3 land, articles, or substances;

4 (b) Determining that certain pesticides are highly toxic to people.
5 For the purpose of this chapter, highly toxic pesticide means any
6 pesticide that conforms to the criteria in 40 C.F.R. Sec. (~~162.10~~)
7 156.10 for toxicity category I due to oral inhalation or dermal
8 toxicity. The director shall publish a list of all pesticides,
9 determined to be highly toxic, by their common or generic name and
10 their trade or brand name if practical. Such list shall be kept
11 current and shall, upon request, be made available to any interested
12 party;

13 (c) Determining standards for denaturing pesticides by color,
14 taste, odor, or form;

15 (d) The collection and examination of samples of pesticides or
16 devices;

17 (e) The safe handling, transportation, storage, display,
18 distribution, and disposal of pesticides and their containers;

19 (f) Restricting or prohibiting the use of certain types of
20 containers or packages for specific pesticides. These restrictions may
21 apply to type of construction, strength, and/or size to alleviate
22 danger of spillage, breakage, misuse, or any other hazard to the
23 public. The director shall be guided by federal regulations concerning
24 pesticide containers;

25 (g) Procedures in making of pesticide recommendations;

26 (h) Adopting a list of restricted use pesticides for the state or
27 for designated areas within the state if the director determines that
28 such pesticides may require rules restricting or prohibiting their
29 distribution or use. The director may include in the rule the time and
30 conditions of distribution or use of such restricted use pesticides and
31 may, if it is found necessary to carry out the purpose and provisions
32 of this chapter, require that any or all restricted use pesticides
33 shall be purchased, possessed, or used only under permit of the
34 director and under the director's direct supervision in certain areas
35 and/or under certain conditions or in certain quantities or
36 concentrations. The director may require all persons issued such
37 permits to maintain records as to the use of all the restricted use
38 pesticides;

1 (i) Label requirements of all pesticides required to be registered
2 under provisions of this chapter;

3 (j) Regulating the labeling of devices;

4 (k) The establishment of criteria governing the conduct of a
5 structural pest control inspection; and

6 (l) Declaring crops, when grown to produce seed specifically for
7 crop reproduction purposes, to be nonfood and/or nonfeed sites of
8 pesticide application. The director may include in the rule any
9 restrictions or conditions regarding: (i) The application of
10 pesticides to the designated crops; and (ii) the disposition of any
11 portion of the treated crop.

12 (3) For the purpose of uniformity and to avoid confusion
13 endangering the public health and welfare the director may adopt rules
14 in conformity with the primary pesticide standards, particularly as to
15 labeling, established by the United States environmental protection
16 agency or any other federal agency.

17 **Sec. 2.** RCW 15.58.070 and 1995 c 374 s 66 are each amended to read
18 as follows:

19 (1) (~~Except as provided in subsection (4) of this section,~~) Any
20 person desiring to register a pesticide with the department shall pay
21 to the director an annual registration fee for each pesticide
22 registered by the department for such person. The registration fee
23 (~~for the registration of pesticides for any one person during a~~
24 ~~calendar year~~) shall be ~~(~~+~~)~~ one hundred ~~(~~five~~)~~ sixty-five dollars
25 for each ~~(~~of the first twenty-five~~)~~ pesticide ~~(~~s~~)~~ registered ~~(~~+~~ one~~
26 ~~hundred dollars for each of the twenty-sixth through one hundredth~~
27 ~~pesticides registered; seventy-five dollars for each of the one hundred~~
28 ~~first through one hundred fiftieth pesticides registered; and fifty~~
29 ~~dollars for each additional pesticide registered. In addition, the~~
30 ~~department may establish by rule a registration fee not to exceed ten~~
31 ~~dollars for each registered product labeled and intended for home and~~
32 ~~garden use only)).~~

33 (2) The revenue generated by the ~~(~~pesticide~~)~~ registration fees
34 shall be deposited in the agricultural local fund to support the
35 activities of the pesticide program within the department. ~~(~~The~~~~
36 ~~revenue generated by the home and garden use only fees shall be~~
37 ~~deposited in the agriculture local fund, to be used to assist in~~

1 ~~funding activities of the pesticide incident reporting and tracking~~
2 ~~review panel.))~~

3 (3) All pesticide registrations expire on December 31st of each
4 year. A registrant may elect to register a pesticide for a two-year
5 period by prepaying for a second year at the time of registration.

6 (4) ~~((A person desiring to register a label where a special local~~
7 ~~need exists shall pay to the director a nonrefundable application fee~~
8 ~~of two hundred dollars upon submission of the registration request. In~~
9 ~~addition, a person desiring to renew an approved special local need~~
10 ~~registration shall pay to the director an annual registration fee of~~
11 ~~two hundred dollars for each special local needs label registered by~~
12 ~~the department for such person. The revenue generated by the special~~
13 ~~local needs application fees and the special local needs renewal fees~~
14 ~~shall be deposited in the agricultural local fund to be used to assist~~
15 ~~in funding the department's special local needs registration~~
16 ~~activities. All special local needs registrations expire on December~~
17 ~~31st of each year.~~

18 (5)) Any registration approved by the director and in effect on
19 the 31st day of December for which a renewal application has been made
20 and the proper fee paid, continues in full force and effect until the
21 director notifies the applicant that the registration has been renewed,
22 or otherwise denied in accord with the provision of RCW 15.58.110.

23 **Sec. 3.** RCW 15.58.170 and 1989 c 380 s 13 are each amended to read
24 as follows:

25 (1) After service of a "stop sale, use or removal" order is made
26 upon any person, either that person or the director may file an action
27 in a court of competent jurisdiction in the county in which a violation
28 of this chapter or rules adopted under this chapter is alleged to have
29 occurred for an adjudication of the alleged violation. The court in
30 such action may issue temporary or permanent injunctions mandatory or
31 restraining, and such intermediate orders as it deems necessary or
32 advisable. The court may order condemnation of any pesticide or device
33 which does not meet the requirements of this chapter or rules adopted
34 under this chapter: PROVIDED, That no authority is granted hereunder
35 to affect the sale or use of products on which legally approved
36 pesticides have been legally used.

37 (2) If the pesticide or device is condemned, it shall, after entry
38 of decree, be disposed of by destruction or sale as the court directs,

1 and the proceeds, if such pesticide or device is sold, less cost
2 including legal costs, shall be paid to the state treasury (~~as~~
3 ~~provided in RCW 15.58.410~~): PROVIDED, That the pesticide or device
4 shall not be sold contrary to the provisions of this chapter or rules
5 adopted under this chapter. Upon payment of costs and execution and
6 delivery of a good and sufficient bond conditioned that the pesticide
7 or device shall not be disposed of unlawfully, the court may direct
8 that the pesticide or device be delivered to the owner thereof for
9 relabeling or reprocessing as the case may be.

10 (3) When a decree of condemnation is entered against the pesticide,
11 court costs, fees, and storage and other proper expenses shall be
12 awarded against the person, if any, appearing as claimant of the
13 pesticide.

14 **Sec. 4.** RCW 15.58.180 and 1989 c 380 s 14 are each amended to read
15 as follows:

16 (1) Except as provided in subsections (4) and (5) of this section,
17 it is unlawful for any person to act in the capacity of a pesticide
18 dealer or advertise as or assume to act as a pesticide dealer without
19 first having obtained an annual license from the director. The license
20 shall expire on the master license expiration date. A license is
21 required for each location or outlet located within this state from
22 which pesticides are distributed. A manufacturer, registrant, or
23 distributor who has no pesticide dealer outlet licensed within this
24 state and who distributes such pesticides directly into this state
25 shall obtain a pesticide dealer license for his or her principal out-
26 of-state location or outlet, but such licensed out-of-state pesticide
27 dealer is exempt from the pesticide dealer manager requirements.

28 (2) Application for a license shall be accompanied by a (~~thirty-~~
29 ~~dollar annual license~~) fee of fifty dollars and shall be made through
30 the master license system and shall include the full name of the person
31 applying for the license and the name of the individual within the
32 state designated as the pesticide dealer manager. If the applicant is
33 a partnership, association, corporation, or organized group of persons,
34 the full name of each member of the firm or partnership or the names of
35 the officers of the association or corporation shall be given on the
36 application. The application shall further state the principal
37 business address of the applicant in the state and elsewhere, the name
38 of a person domiciled in this state authorized to receive and accept

1 service of summons of legal notices of all kinds for the applicant, and
2 any other necessary information prescribed by the director.

3 (3) It is unlawful for any licensed dealer outlet to operate
4 without a pesticide dealer manager who has a license of qualification.
5 The department shall be notified forthwith of any change in the
6 pesticide dealer manager designee during the licensing period.

7 (4) This section does not apply to (a) a licensed pesticide
8 applicator who sells pesticides only as an integral part of the
9 applicator's pesticide application service when such pesticides are
10 dispensed only through apparatuses used for such pesticide application,
11 or (b) any federal, state, county, or municipal agency that provides
12 pesticides only for its own programs.

13 (5) A user of a pesticide may distribute a properly labeled
14 pesticide to another user who is legally entitled to use that pesticide
15 without obtaining a pesticide dealer's license if the exclusive purpose
16 of distributing the pesticide is keeping it from becoming a hazardous
17 waste as defined in chapter 70.105 RCW.

18 **Sec. 5.** RCW 15.58.200 and 1992 c 170 s 2 are each amended to read
19 as follows:

20 The director shall require each pesticide dealer manager to
21 demonstrate to the director knowledge of pesticide laws and rules;
22 pesticide hazards; and the safe distribution, use and application, and
23 disposal of pesticides by satisfactorily passing a written examination
24 after which the director shall issue a license of qualification.
25 Application for a license shall be accompanied by a ~~((license))~~ fee of
26 ~~((fifteen))~~ twenty-five dollars. The pesticide dealer manager license
27 shall be an annual license expiring on a date set by rule by the
28 director. ~~((License fees shall be prorated where necessary to
29 accommodate staggering of expiration dates of a license or licenses.))~~

30 **Sec. 6.** RCW 15.58.210 and 1992 c 170 s 3 are each amended to read
31 as follows:

32 (1) Except as provided in subsection (2) of this section, no
33 individual may perform services as a pest control consultant without
34 obtaining a license from the director ~~((an annual license, which)).~~
35 The license shall expire annually on a date set by rule by the
36 director. ~~((License fees shall be prorated where necessary to
37 accommodate staggering of expiration dates of a license or licenses.))~~

1 Except as provided in subsection (3) of this section, no individual may
2 act as a structural pest control inspector without first obtaining from
3 the director a pest control consultant license in the special category
4 of structural pest control inspector. Application for a license shall
5 be on a form prescribed by the director and shall be accompanied by a
6 fee of (~~thirty~~) forty-five dollars.

7 (2) The following are exempt from the licensing requirements of
8 subsection (1) of this section when acting within the authorities of
9 their existing licenses issued under chapter 17.21 RCW: Licensed
10 commercial pesticide applicators and operators; licensed
11 private-commercial applicators; and licensed demonstration and research
12 applicators. The following are also exempt from the licensing
13 requirements of subsection (1) of this section: Employees of federal,
14 state, county, or municipal agencies when acting in their official
15 governmental capacities; and pesticide dealer managers and employees
16 working under the direct supervision of the pesticide dealer manager
17 and only at a licensed pesticide dealer's outlet.

18 (3) The following are exempt from the structural pest control
19 inspector licensing requirement: Individuals inspecting for damage
20 caused by wood destroying organisms if such inspections are solely for
21 the purpose of: (a) Repairing or making specific recommendations for
22 the repair of such damage, or (b) assessing a monetary value for the
23 structure inspected. Individuals performing wood destroying organism
24 inspections that incorporate but are not limited to the activities
25 described in (a) or (b) of this subsection are not exempt from the
26 structural pest control inspector licensing requirement.

27 **Sec. 7.** RCW 15.58.220 and 1991 c 109 s 40 are each amended to read
28 as follows:

29 For the purpose of this section public pest control consultant
30 means any individual who is employed by a governmental agency or unit
31 to act as a pest control consultant as defined in RCW 15.58.030(28).
32 No person shall act as a public pest control consultant (~~on or after~~
33 ~~February 28, 1973~~) without first obtaining (~~an annual~~) a license
34 from the director. The license shall expire annually on a date set by
35 rule by the director. (~~License fees shall be prorated where necessary~~
36 ~~to accommodate staggering of expiration dates of a license or~~
37 ~~licenses.)) Application for a license shall be on a form prescribed by
38 the director and shall be accompanied by (~~an annual license~~) a fee of~~

1 ((fifteen)) twenty-five dollars. Federal and state employees whose
2 principal responsibilities are in pesticide research, the
3 jurisdictional health officer or a duly authorized representative,
4 public pest control consultants licensed and working in the health
5 vector field, and public operators licensed under RCW 17.21.220 shall
6 be exempt from this licensing provision.

7 **Sec. 8.** RCW 15.58.420 and 1989 c 380 s 30 are each amended to read
8 as follows:

9 By (~~December 1, 1989, and each subsequent December 1,~~) February
10 1st of each year the department shall report to the appropriate
11 committees of the house of representatives and the senate on the
12 activities of the department under this chapter. The report shall
13 include, at a minimum, a review of the department's enforcement
14 activities, with the number of cases investigated and the number and
15 amount of civil penalties assessed.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 15.58 RCW
17 to read as follows:

18 (1) The director may renew any license issued under this chapter
19 subject to the recertification standards identified in subsection (2)
20 of this section or an examination requiring new knowledge that may be
21 required to apply pesticides.

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

26 (a) Licensed pesticide applicators may qualify for continued
27 licensure through accumulation of recertification credits. Individuals
28 licensed under this chapter shall accumulate a minimum of forty
29 department-approved credits every five years with no more than fifteen
30 credits allowed per year.

31 (b) Licensed pesticide applicators may qualify for continued
32 licensure through meeting the examination requirements necessary to
33 become licensed in those areas in which the licensee operates.

34 (3) At the termination of a licensee's five-year recertification
35 period, the director may waive the recertification requirements if the
36 licensee can demonstrate that he or she is meeting comparable
37 recertification standards through another state or jurisdiction or

1 through a federal environmental protection agency-approved government
2 agency plan.

3 **Sec. 10.** RCW 17.21.070 and 1994 c 283 s 6 are each amended to read
4 as follows:

5 It shall be unlawful for any person to engage in the business of
6 applying pesticides to the land of another without a commercial
7 pesticide applicator license. Application for ~~((the))~~ a commercial
8 applicator license shall be accompanied by a fee of one hundred
9 ~~((thirty-six))~~ seventy dollars and in addition a fee of ~~((eleven))~~
10 twenty dollars for each apparatus, exclusive of one, used by the
11 applicant in the application of pesticides: PROVIDED, That the
12 provisions of this section shall not apply to any person employed only
13 to operate any apparatus used for the application of any pesticide, and
14 in which such person has no financial interest or other control over
15 such apparatus other than its day to day mechanical operation for the
16 purpose of applying any pesticide.

17 **Sec. 11.** RCW 17.21.110 and 1994 c 283 s 10 are each amended to
18 read as follows:

19 It shall be unlawful for any person to act as an employee of a
20 commercial pesticide applicator and apply pesticides manually or as the
21 operator directly in charge of any apparatus which is licensed or
22 should be licensed under the provisions of this chapter for the
23 application of any pesticide, without having obtained a commercial
24 pesticide operator license from the director. The commercial pesticide
25 operator license shall be in addition to any other license or permit
26 required by law for the operation or use of any such apparatus.
27 Application for a commercial operator license shall be accompanied by
28 a ~~((license))~~ fee of ~~((thirty-three))~~ fifty dollars. The provisions of
29 this section shall not apply to any individual who is a licensed
30 commercial pesticide applicator.

31 **Sec. 12.** RCW 17.21.122 and 1994 c 283 s 11 are each amended to
32 read as follows:

33 It shall be unlawful for any person to act as a private-commercial
34 pesticide applicator without having obtained a private-commercial
35 pesticide applicator license from the director. Application for a
36 private-commercial pesticide applicator license shall be accompanied by

1 a ((license)) fee of ((seventeen)) twenty-five dollars ((before—a
2 license may be issued)).

3 **Sec. 13.** RCW 17.21.126 and 1994 c 283 s 12 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))
7 requirements determined by the director as necessary to prevent
8 unreasonable adverse effects on the environment, including injury to
9 the pesticide applicator or other persons, for each specific pesticide
10 use.

11 (1) Certification standards to determine the individual's
12 competency with respect to the use and handling of the pesticide or
13 class of pesticides for which the private pesticide applicator is
14 certified shall be relative to hazards 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 these standards by
18 rule.

19 (2) Application for a private pesticide applicator
20 ((certification)) license shall be accompanied by a ((license)) fee of
21 ((seventeen)) twenty-five dollars. 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 the private applicator fee
25 requirement. However, licensed public pesticide operators, otherwise
26 exempted from the public pesticide operator license fee requirement,
27 are not also exempted from the private pesticide applicator fee
28 requirement.

29 **Sec. 14.** RCW 17.21.129 and 1994 c 283 s 14 are each amended to
30 read as follows:

31 Except as provided in RCW 17.21.203, it is unlawful for a person to
32 use or supervise the use of any experimental use pesticide or any
33 restricted use pesticide on small experimental plots for research
34 purposes when no charge is made for the pesticide and its application
35 without a demonstration and research applicator's license.

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

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

6 **Sec. 15.** RCW 17.21.132 and 1994 c 283 s 16 are each amended to
7 read as follows:

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

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

14 (2) For all classes of licenses except private applicator, all
15 applicants shall be at least eighteen years of age on the date that the
16 application is made. Applicants for a private pesticide applicator
17 license shall be at least sixteen years of age on the date that the
18 application is made.

19 (3) Application for a license to apply pesticides shall be
20 accompanied by the required fee. No license may be issued until the
21 required ((license)) fee has been received by the department.
22 ~~((License fees shall be prorated where necessary to accommodate
23 staggering of expiration dates of a license or licenses.))~~

24 (4) Each classification of license issued under this chapter shall
25 expire annually on a date set by rule by the director. ~~((License
26 expiration dates may be staggered for administrative purposes.))~~
27 Renewal applications shall be filed on or before the applicable
28 expiration date.

29 **Sec. 16.** RCW 17.21.220 and 1994 c 283 s 25 are each amended to
30 read as follows:

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

35 (2) It shall be unlawful for any employee of a state agency,
36 municipal corporation, public utility, or any other government agency
37 to use or to supervise the use of any restricted use pesticide, or any

1 pesticide by means of an apparatus, without having obtained a public
2 operator license from the director. (~~(A license)~~) Application for a
3 public operator license shall be accompanied by a fee of ((seventeen))
4 twenty-five dollars (~~((shall be paid before a public operator license~~
5 ~~may be issued))~~). The (~~(license)~~) fee shall not apply to public
6 operators licensed and working in the health vector field. The public
7 operator license shall be valid only when the operator is acting as an
8 employee of a government agency.

9 (3) The jurisdictional health officer or his or her duly authorized
10 representative is exempt from this licensing provision when applying
11 pesticides that are not restricted use pesticides to control pests
12 other than weeds.

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

17 **Sec. 17.** RCW 17.21.350 and 1989 c 380 s 64 are each amended to
18 read as follows:

19 By (~~((December 1, 1989, and each subsequent December 1,))~~) February
20 1st of each year the department shall report to the appropriate
21 committees of the house of representatives and the senate on the
22 activities of the department under this chapter. The report shall
23 include, at a minimum: (1) A review of the department's pesticide
24 incident investigation and enforcement activities, with the number of
25 cases investigated and the number and amount of civil penalties
26 assessed; and (2) a summary of the pesticide residue food monitoring
27 program with information on the food samples tested and results of the
28 tests, a listing of the pesticides for which (~~((no))~~) testing is done,
29 and other pertinent information.

30 NEW SECTION. **Sec. 18.** The following acts or parts of acts are
31 each repealed:

- 32 (1) RCW 15.58.245 and 1992 c 170 s 4 & 1989 c 380 s 21; and
33 (2) RCW 17.21.910 and 1994 c 283 s 35, 1992 c 170 s 10, 1989 c 380
34 s 65, & 1961 c 249 s 32.

35 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
36 each repealed:

1 (1) RCW 15.58.415 and 1993 sp.s. c 19 s 3 & 1989 c 380 s 32; and
2 (2) RCW 17.21.360 and 1994 c 283 s 31, 1993 sp.s. c 19 s 10, & 1989
3 c 380 s 66.

4 NEW SECTION. **Sec. 20.** Sections 2, 4 through 7, 10 through 14, 16,
5 and 19 of this act take effect January 1, 1998.

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