

HOUSE BILL REPORT

HB 2726

As Reported By House Committee On:
Agriculture & Ecology

Title: An act relating to minimizing the use of pesticides in and around certain facilities.

Brief Description: Addressing concerns about pesticide use in schools.

Sponsors: Representatives Cooper, Campbell, Linville, Barlean, Dickerson, Stensen, Schual-Berke, Reardon, Romero, Sullivan, Lovick, Gombosky, Santos, Regala, Fisher, Scott, Keiser, Conway, Veloria, Dunshee, Anderson, Ruderman, O'Brien, Hurst, Constantine, Haigh, Edmonds, Wood, Kagi, Kenney and Rockefeller.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/2/00, 2/4/00 [DPS].

Brief Summary of Substitute Bill

- Requires certain day cares, preschools, kindergartens, and public elementary and secondary schools to provide certain notices and to post certain notices regarding pesticides applied on their facilities.
- Provides exemptions from these requirements

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 8 members: Representatives Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Anderson; Fortunato; Grant; Reardon; Stensen and Wood.

Minority Report: Without recommendation. Signed by 6 members: Representatives G. Chandler, Republican Co-Chair; Koster, Republican Vice Chair; B. Chandler; Delvin; Schoesler and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA. 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). The "pesticides" regulated in this manner encompass herbicides, insecticides, and similar chemicals that control pests. At the state level, pesticides sold or distributed within the state must be registered under the Washington Pesticide Control Act. Their use in the state is regulated under the Washington Pesticide Application Act. Persons who are licensed as applicators under the latter act must post markers or signs when they make landscape applications of pesticides to certain residential or commercial properties: golf courses; parks; cemeteries, rest stops or similar properties identified by rule; and schools, nursery schools or licensed day cares. These markers must provide certain specified information regarding the applications.

The label for a pesticide is regulated and controls its use. The EPA's regulations for these labels require signal words to the consumer to appear on the front panel of the label regarding toxicity. With the exception of a child hazard warning statement, the signal word that must appear on a label is determined by the toxicity category of the pesticide. The labels of pesticides meeting the criteria of Toxicity Category I must contain a "Danger" front panel signal, unless they meet that criteria based on oral, inhalation or dermal toxicity, in which case they must be labeled "Poison." All pesticides meeting the criteria of Toxicity Category II must contain the "Warning" signal word.

Summary of Substitute Bill:

If a school intends to make spray or granular applications of pesticides during the school year, it must provide an annual notice about the school's pest control policies and methods. The notice must also identify where a list of the pesticides that may be used by the school and material safety data sheets for those pesticides may be accessed. The notice must be provided to students, parents or guardians of students, and employees or, if the school maintains a registry of persons on a registry as wishing to receive the notice, it must be provided to those on the registry.

A school must also provide posted and written notice at least 48 hours before a pesticide is applied to a school facility that is used for school purposes and visited or used by children attending the school. The school must post certain signs at the treatment site, in a central area at the school, and at points of entry. The signs must remain in place for at least five calendar days following the application of a toxicity category I or II pesticide and for a shorter interval for applications of other pesticides. The content of these notices and signs is specified.

The active ingredient for the pesticide must be included in the information that a contact person must be prepared to provide. A person making the application must display the name and telephone number of the applicator on any application apparatus and must carry a material safety data sheet for each pesticide being applied.

These requirements do not apply to the application of antimicrobial pesticides, the placement of rodent or insect bait stations that are not accessible to children, or applications made for emergency purposes; for example, to control venomous spiders or stinging insects.

If the application is made during an extended break when children are not present, and when the treatment ends no less than 96 hours before the end of the break, the school must send written notice before to the beginning of the break. Any school application to a landscape, athletic field, or outdoor structure during the break is subject to posting requirements.

Neither the school nor the applicator is liable for the removal of signs by unauthorized persons. A school or an applicator who complies with these requirements may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

The schools that are subject to these requirements are licensed day cares, preschools, kindergartens, and elementary and secondary schools. Private schools approved by the Office of the Superintendent of Public Instruction and postsecondary educational facilities attended by secondary school students are not subject to these requirements.

Substitute Bill Compared to Original Bill: The original bill requires: 1) the Department of Health to prepare a list of pesticides commonly used by school districts and day cares and determine which meet certain specified standards as being high hazards and which are least toxic; 2) school districts to prepare annual plans to achieve significant reductions in the use of pesticides other than the least toxic; and 3) prohibits the use of any other than the least toxic pesticides at school facilities for the control of pests that do not present a human health risk. These provisions are replaced by the posting and notification requirements for schools provided by the substitute bill.

Appropriation: None.

Fiscal Note: Requested on January 21, 2000.

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

Testimony For: (First version of substitute bill) We should not wait for a tragic accident to occur when we can plan to avoid such accidents. The standards set for pesticide exposures are not pediatric; children are anatomically much more vulnerable than the adults for whom the standards are developed. A large percentage of schools surveyed use highly toxic pesticides and few provide notice to parents or students. The bill provides an important step in providing that notification. Approximately one-third of a child's life is spent at school; extracurricular activities extend the time further. Parents should have the right to know whether their children are being exposed to pesticides. It is very difficult to get that information now. Less toxic and non-toxic alternatives to current practices are available to schools. The key to addressing the problems that result from a child's pesticide exposure is early intervention for prevention. Notification is a first step.

Testimony Against: (First version of substitute bill) The bill should not apply to emergencies such as stinging insects. Students also need to be protected from rats, insects, and poisonous plants. It will be hard for schools to determine in advance which pesticides they may use during the year and to anticipate changes in weather that dictate changes in when pesticides are used. The state is already working through public education to encourage the use of integrated pest management at schools. The bait station exemption should be limited to those for rodents and insects. The Legislature needs to provide funding to provide better training for school staff.

Testified: (In support) Erika Schreder and Deb Seymore, Washington Toxics Coalition; Teresa Cushing; Jill Albinger; Mary Ann Gushard, Department of Health; Barbara Casey, Washington State PTA; Diane Quartice; Sheri Appleton, League of Women Voters; Mary Beth Lang, Department of Agriculture; Larry Treleven, Washington State Pest Control Association; and Matt Johns.

(Commented) Barbara Mertens, Washington Association of School Administrators; and Dan Coyne, Responsible Industry for a Sound Environment.

(Concerns) Heather Hanson, Washington Friends of Farms and Forests; and Doug Nelson, Public School Employees.