
HOUSE BILL 2726

State of Washington

56th Legislature

2000 Regular Session

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

Read first time 01/19/2000. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to minimizing the use of pesticides in and around
2 certain facilities; amending RCW 17.21.020; adding new sections to
3 chapter 17.21 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that children are more
6 vulnerable than adults to the hazardous effects of pesticides. The
7 intent of this act is to minimize the use of high-hazard pesticides in
8 and around schools and to promote the use of the least toxic pesticides
9 available when pest controls are needed.

10 **Sec. 2.** RCW 17.21.020 and 1994 c 283 s 1 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Agricultural commodity" means any plant or part of a plant, or
15 animal, or animal product, produced by a person (including farmers,
16 ranchers, vineyardists, plant propagators, Christmas tree growers,
17 aquaculturists, floriculturists, orchardists, foresters, or other

1 comparable persons) primarily for sale, consumption, propagation, or
2 other use by people or animals.

3 (2) "Agricultural land" means land on which an agricultural
4 commodity is produced or land that is in a government-recognized
5 conservation reserve program. This definition does not apply to
6 private gardens where agricultural commodities are produced for
7 personal consumption.

8 (3) "Antimicrobial pesticide" means a pesticide as defined by 7
9 U.S.C. 136(mm).

10 (4) "Apparatus" means any type of ground, water, or aerial
11 equipment, device, or contrivance using motorized, mechanical, or
12 pressurized power and used to apply any pesticide on land and anything
13 that may be growing, habitating, or stored on or in such land, but
14 shall not include any pressurized handsized household device used to
15 apply any pesticide, or any equipment, device, or contrivance of which
16 the person who is applying the pesticide is the source of power or
17 energy in making such pesticide application, or any other small
18 equipment, device, or contrivance that is transported in a piece of
19 equipment licensed under this chapter as an apparatus.

20 ((+4)) (5) "Arthropod" means any invertebrate animal that belongs
21 to the phylum arthropoda, which in addition to insects, includes allied
22 classes whose members are wingless and usually have more than six legs;
23 for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

24 ((+5)) (6) "Certified applicator" means any individual who is
25 licensed as a commercial pesticide applicator, commercial pesticide
26 operator, public operator, private-commercial applicator, demonstration
27 and research applicator, or certified private applicator, or any other
28 individual who is certified by the director to use or supervise the use
29 of any pesticide which is classified by the EPA or the director as a
30 restricted use pesticide.

31 ((+6)) (7) "Commercial pesticide applicator" means any person who
32 engages in the business of applying pesticides to the land of another.

33 ((+7)) (8) "Commercial pesticide operator" means any employee of
34 a commercial pesticide applicator who uses or supervises the use of any
35 pesticide and who is required to be licensed under provisions of this
36 chapter.

37 ((+8)) (9) "Defoliant" means any substance or mixture of
38 substances intended to cause the leaves or foliage to drop from a plant
39 with or without causing abscission.

1 (~~(9)~~) (10) "Department" means the Washington state department of
2 agriculture.

3 (~~(10)~~) (11) "Desiccant" means any substance or mixture of
4 substances intended to artificially accelerate the drying of plant
5 tissues.

6 (~~(11)~~) (12) "Device" means any instrument or contrivance intended
7 to trap, destroy, control, repel, or mitigate pests, but not including
8 equipment used for the application of pesticides when sold separately
9 from the pesticides.

10 (~~(12)~~) (13) "Direct supervision" by certified private applicators
11 shall mean that the designated restricted use pesticide shall be
12 applied for purposes of producing any agricultural commodity on land
13 owned or rented by the applicator or the applicator's employer, by a
14 competent person acting under the instructions and control of a
15 certified private applicator who is available if and when needed, even
16 though such certified private applicator is not physically present at
17 the time and place the pesticide is applied. The certified private
18 applicator shall have direct management responsibility and familiarity
19 of the pesticide, manner of application, pest, and land to which the
20 pesticide is being applied. Direct supervision by all other certified
21 applicators means direct on-the-job supervision and shall require that
22 the certified applicator be physically present at the application site
23 and that the person making the application be in voice and visual
24 contact with the certified applicator at all times during the
25 application. Direct supervision of an aerial apparatus means the pilot
26 of the aircraft must be appropriately certified.

27 (~~(13)~~) (14) "Director" means the director of the department or a
28 duly authorized representative.

29 (~~(14)~~) (15) "Engage in business" means any application of
30 pesticides by any person upon lands or crops of another.

31 (~~(15)~~) (16) "EPA" means the United States environmental
32 protection agency.

33 (~~(16)~~) (17) "EPA restricted use pesticide" means any pesticide
34 classified for restricted use by the administrator, EPA.

35 (~~(17)~~) (18) "FIFRA" means the federal insecticide, fungicide and
36 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

37 (~~(18)~~) (19) "Fumigant" means any pesticide product or combination
38 of products that is a vapor or gas or forms a vapor or gas on

1 application and whose method of pesticidal action is through the
2 gaseous state.

3 ~~((19))~~ (20) "Fungi" means all nonchlorophyll-bearing thallophytes
4 (all nonchlorophyll-bearing plants of lower order than mosses and
5 liverworts); for example, rusts, smuts, mildews, molds, and yeasts,
6 except those on or in a living person or other animals.

7 ~~((20))~~ (21) "Fungicide" means any substance or mixture of
8 substances intended to prevent, destroy, repel, or mitigate any fungi.

9 ~~((21))~~ (22) "Herbicide" means any substance or mixture of
10 substances intended to prevent, destroy, repel, or mitigate any weed or
11 other higher plant.

12 ~~((22))~~ (23) "High-hazard pesticide" means a pesticide that meets
13 one or more of the following criteria:

14 (a) Classified as hazard category I or hazard category II by the
15 United States environmental protection agency;

16 (b) Classified as a known, likely, probable, or possible carcinogen
17 by the United States environmental protection agency;

18 (c) Contains a known, probable, or suspect endocrine disruptor;

19 (d) Nervous system toxicant;

20 (e) Reproductive toxicant;

21 (f) Persists in the environment, containing a soil half-life
22 greater than one hundred days;

23 (g) Active ingredient has high or very high mobility in soils; or

24 (h) Product is labeled as toxic to fish, birds, bees, wildlife, or
25 domestic animals.

26 (24) "Immediate service call" means a landscape application to
27 satisfy an emergency customer request for service, or a treatment to
28 control a pest to landscape plants.

29 ~~((23))~~ (25) "Insect" means any small invertebrate animal, in any
30 life stage, whose adult form is segmented and which generally belongs
31 to the class insecta, comprised of six-legged, usually winged forms,
32 as, for example, beetles, bugs, bees, and flies. The term insect shall
33 also apply to other allied classes of arthropods whose members are
34 wingless and usually have more than six legs, for example, spiders,
35 mites, ticks, centipedes, and isopod crustaceans.

36 ~~((24))~~ (26) "Insecticide" means any substance or mixture of
37 substances intended to prevent, destroy, repel, or mitigate any insect.

38 ~~((25))~~ (27) "Land" means all land and water areas, including
39 airspace and all plants, animals, structures, buildings, devices, and

1 contrivances, appurtenant to or situated on, fixed or mobile, including
2 any used for transportation.

3 ~~((26))~~ (28) "Landscape application" means an application by a
4 certified applicator of any EPA registered pesticide to any exterior
5 landscape plants found around residential property, commercial
6 properties such as apartments or shopping centers, parks, golf courses,
7 schools including nursery schools and licensed day cares, or cemeteries
8 or similar areas. This definition shall not apply to: (a)
9 Applications made by certified private applicators; (b) mosquito
10 abatement, gypsy moth eradication, or similar wide-area pest control
11 programs sponsored by governmental entities; and (c) commercial
12 pesticide applicators making structural applications.

13 ~~((27))~~ (29) "Least-toxic pesticide" means a pesticide for which
14 all of the following are true:

15 (a) Disclosed ingredients in product have been evaluated by the
16 United States environmental protection agency and found to include no
17 possible, probable, known, or likely carcinogens;

18 (b) Disclosed ingredients in product include no reproductive
19 toxicants;

20 (c) Disclosed ingredients in product include no known, probable, or
21 suspect endocrine disruptors;

22 (d) Active ingredient has soil half-life of thirty days or less
23 unless the active ingredient is a mineral;

24 (e) Active ingredient has extremely low or very low mobility in
25 soil; and

26 (f) Product is not labeled as toxic to fish, birds, bees, wildlife,
27 or domestic animals.

28 (30) "Nematocide" means any substance or mixture of substances
29 intended to prevent, destroy, repel, or mitigate nematodes.

30 ~~((28))~~ (31) "Nematode" means any invertebrate animal of the
31 phylum nemathelminthes and class nematoda, that is, unsegmented round
32 worms with elongated, fusiform, or saclike bodies covered with cuticle,
33 and inhabiting soil, water, plants or plant parts. Nematodes may also
34 be called nemas or eelworms.

35 ~~((29))~~ (32) "Person" means any individual, partnership,
36 association, corporation, or organized group of persons whether or not
37 incorporated.

38 ~~((30))~~ (33) "Pest" means, but is not limited to, any insect,
39 rodent, nematode, snail, slug, weed, and any form of plant or animal

1 life or virus, except virus, bacteria, or other microorganisms on or in
2 a living person or other animal or in or on processed food or beverages
3 or pharmaceuticals, which is normally considered to be a pest, or which
4 the director may declare to be a pest.

5 ~~((31))~~ (34) "Pesticide" means, but is not limited to:

6 (a) Any substance or mixture of substances intended to prevent,
7 destroy, control, repel, or mitigate any pest;

8 (b) Any substance or mixture of substances intended to be used as
9 a plant regulator, defoliant or desiccant; and

10 (c) Any spray adjuvant, such as a wetting agent, spreading agent,
11 deposit builder, adhesive, emulsifying agent, deflocculating agent,
12 water modifier, or similar agent with or without toxic properties of
13 its own intended to be used with any pesticide as an aid to the
14 application or effect thereof, and sold in a package or container
15 separate from that of the pesticide with which it is to be used.

16 ~~((32))~~ (35) "Pesticide advisory board" means the pesticide
17 advisory board as provided for in this chapter.

18 ~~((33))~~ (36) "Plant regulator" means any substance or mixture of
19 substances intended through physiological action, to accelerate or
20 retard the rate of growth or maturation, or to otherwise alter the
21 behavior of ornamental or crop plants or their produce, but shall not
22 include substances insofar as they are intended to be used as plant
23 nutrients, trace elements, nutritional chemicals, plant inoculants, or
24 soil amendments.

25 ~~((34))~~ (37) "Private applicator" means a certified applicator who
26 uses or is in direct supervision of the use of any pesticide classified
27 by the EPA or the director as a restricted use pesticide, for the
28 purposes of producing any agricultural commodity and for any associated
29 noncrop application on land owned or rented by the applicator or the
30 applicator's employer or if applied without compensation other than
31 trading of personal services between producers of agricultural
32 commodities on the land of another person.

33 ~~((35))~~ (38) "Private-commercial applicator" means a certified
34 applicator who uses or supervises the use of any pesticide classified
35 by the EPA or the director as a restricted use pesticide for purposes
36 other than the production of any agricultural commodity on lands owned
37 or rented by the applicator or the applicator's employer.

38 ~~((36))~~ (39) "Residential property" includes property less than
39 one acre in size zoned as residential by a city, town, or county, but

1 does not include property zoned as agricultural or agricultural
2 homesites.

3 ~~((+37+))~~ (40) "Restricted use pesticide" means any pesticide or
4 device which, when used as directed or in accordance with a widespread
5 and commonly recognized practice, the director determines, subsequent
6 to a hearing, requires additional restrictions for that use to prevent
7 unreasonable adverse effects on the environment including people,
8 lands, beneficial insects, animals, crops, and wildlife, other than
9 pests.

10 ~~((+38+))~~ (41) "Rodenticide" means any substance or mixture of
11 substances intended to prevent, destroy, repel, or mitigate rodents, or
12 any other vertebrate animal which the director may declare by rule to
13 be a pest.

14 ~~((+39+))~~ (42) "School district designee" means the individual
15 identified by the school district to carry out the requirements of this
16 chapter at the school facility.

17 (43) "School facility" means any facility used for licensed
18 daycare, kindergarten, elementary, or secondary school purposes. The
19 term includes the buildings or structures, playgrounds, landscape
20 areas, athletic fields, school vehicles, or any other area of school
21 property visited or used by pupils. "School facility" does not include
22 any postsecondary educational facility attended by secondary school
23 pupils.

24 (44) "Snails or slugs" include all harmful mollusks.

25 ~~((+40+))~~ (45) "Unreasonable adverse effects on the environment"
26 means any unreasonable risk to people or the environment taking into
27 account the economic, social, and environmental costs and benefits of
28 the use of any pesticide, or as otherwise determined by the director.

29 ~~((+41+))~~ (46) "Weed" means any plant which grows where it is not
30 wanted.

31 NEW SECTION. Sec. 3. A new section is added to chapter 17.21 RCW
32 to read as follows:

33 The department of health shall prepare a list of pesticides
34 commonly used by school districts and daycares and determine which of
35 these pesticides meet the criteria for high-hazard pesticides and which
36 of these pesticides meet the criteria for least-toxic pesticides. This
37 list must be made available to school districts and daycare operators.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 17.21 RCW
2 to read as follows:

3 (1) School district designees shall prepare annual plans whose
4 purpose is to achieve significant reductions in the use of pesticides
5 other than those defined as least toxic in RCW 17.21.020. Such plans
6 shall include the following components:

7 (a) Documentation of the type, quantity, and seasonal variation of
8 pests in school facilities within the jurisdiction of the school
9 district;

10 (b) Identification of any pests under (a) of this subsection that
11 are known to present a human health risk;

12 (c) Documentation of the type, quantity, and seasonal application
13 of pesticides, and of other methods of pest control, in school
14 facilities within the jurisdiction of the school district; and

15 (d) Quantitative measures for reducing or eliminating the
16 application of high-hazard pesticides, while effectively controlling
17 pests that present a human health risk.

18 (2) For the control of pests that do not present a human health
19 risk, school districts shall use only least-toxic pesticides in school
20 facilities within the jurisdiction of the school district.

21 (3) The plans shall be adopted and monitored by school districts as
22 part of general operations plans.

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