
SUBSTITUTE SENATE BILL 6479

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Education (originally sponsored by Senators Eide, McAuliffe, Goings, Brown, Patterson, Costa, Fraser, Jacobsen, Kline, Rasmussen and Kohl-Welles)

Read first time 01/28/2000.

1 AN ACT Relating to addressing concerns about pesticide use in
2 schools; amending RCW 17.21.020 and 17.21.410; adding a new section to
3 chapter 17.21 RCW; adding a new section to chapter 28A.320 RCW; adding
4 a new section to chapter 74.15 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 improve student safety by providing parents and guardians with
8 information concerning pesticides that pose risks to children. The
9 metabolism, physiology, and diet of children puts them at higher risk
10 than adults to pesticide exposure. Children spend much of their time
11 in schools and day care centers, and parents and guardians have a right
12 to be informed about potential health threats to their children.

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

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Agricultural commodity" means any plant or part of a plant, or
18 animal, or animal product, produced by a person (including farmers,

1 ranchers, vineyardists, plant propagators, Christmas tree growers,
2 aquaculturists, floriculturists, orchardists, foresters, or other
3 comparable persons) primarily for sale, consumption, propagation, or
4 other use by people or animals.

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

10 (3) "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) "Arthropod" means any invertebrate animal that belongs to the
21 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) "Certified applicator" means any individual who is licensed as
25 a commercial pesticide applicator, commercial pesticide operator,
26 public operator, private-commercial applicator, demonstration and
27 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) "Commercial pesticide applicator" means any person who engages
32 in the business of applying pesticides to the land of another.

33 (7) "Commercial pesticide operator" means any employee of a
34 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) "Defoliant" means any substance or mixture of substances
38 intended to cause the leaves or foliage to drop from a plant with or
39 without causing abscission.

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

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

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

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

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

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

30 (15) "EPA" means the United States environmental protection agency.

31 (16) "EPA restricted use pesticide" means any pesticide classified
32 for restricted use by the administrator, EPA.

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

35 (18) "Fumigant" means any pesticide product or combination of
36 products that is a vapor or gas or forms a vapor or gas on application
37 and whose method of pesticidal action is through the gaseous state.

38 (19) "Fungi" means all nonchlorophyll-bearing thallophytes (all
39 nonchlorophyll-bearing plants of lower order than mosses and

1 liverworts); for example, rusts, smuts, mildews, molds, and yeasts,
2 except those on or in a living person or other animals.

3 (20) "Fungicide" means any substance or mixture of substances
4 intended to prevent, destroy, repel, or mitigate any fungi.

5 (21) "Herbicide" means any substance or mixture of substances
6 intended to prevent, destroy, repel, or mitigate any weed or other
7 higher plant.

8 (22) "Immediate service call" means a landscape application to
9 satisfy an emergency customer request for service, or a treatment to
10 control a pest to landscape plants.

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

18 (24) "Insecticide" means any substance or mixture of substances
19 intended to prevent, destroy, repel, or mitigate any insect.

20 (25) "Land" means all land and water areas, including airspace and
21 all plants, animals, structures, buildings, devices, and contrivances,
22 appurtenant to or situated on, fixed or mobile, including any used for
23 transportation.

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

34 (27) "Nematocide" means any substance or mixture of substances
35 intended to prevent, destroy, repel, or mitigate nematodes.

36 (28) "Nematode" means any invertebrate animal of the phylum
37 nemathelminthes and class nematoda, that is, unsegmented round worms
38 with elongated, fusiform, or saclike bodies covered with cuticle, and

1 inhabiting soil, water, plants or plant parts. Nematodes may also be
2 called nemas or eelworms.

3 (29) "Person" means any individual, partnership, association,
4 corporation, or organized group of persons whether or not incorporated.

5 (30) "Pest" means, but is not limited to, any insect, rodent,
6 nematode, snail, slug, weed, and any form of plant or animal life or
7 virus, except virus, bacteria, or other microorganisms on or in a
8 living person or other animal or in or on processed food or beverages
9 or pharmaceuticals, which is normally considered to be a pest, or which
10 the director may declare to be a pest.

11 (31) "Pesticide" means, but is not limited to:

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

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

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

22 (32) "Pesticide advisory board" means the pesticide advisory board
23 as provided for in this chapter.

24 (33) "Plant regulator" means any substance or mixture of substances
25 intended through physiological action, to accelerate or retard the rate
26 of growth or maturation, or to otherwise alter the behavior of
27 ornamental or crop plants or their produce, but shall not include
28 substances insofar as they are intended to be used as plant nutrients,
29 trace elements, nutritional chemicals, plant inoculants, or soil
30 amendments.

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

1 (35) "Private-commercial applicator" means a certified applicator
2 who uses or supervises the use of any pesticide classified by the EPA
3 or the director as a restricted use pesticide for purposes other than
4 the production of any agricultural commodity on lands owned or rented
5 by the applicator or the applicator's employer.

6 (36) "Residential property" includes property less than one acre in
7 size zoned as residential by a city, town, or county, but does not
8 include property zoned as agricultural or agricultural homesites.

9 (37) "Restricted use pesticide" means any pesticide or device
10 which, when used as directed or in accordance with a widespread and
11 commonly recognized practice, the director determines, subsequent to a
12 hearing, requires additional restrictions for that use to prevent
13 unreasonable adverse effects on the environment including people,
14 lands, beneficial insects, animals, crops, and wildlife, other than
15 pests.

16 (38) "Rodenticide" means any substance or mixture of substances
17 intended to prevent, destroy, repel, or mitigate rodents, or any other
18 vertebrate animal which the director may declare by rule to be a pest.

19 (39) "School facility" means any facility used for licensed day
20 care, preschool, kindergarten, or elementary or secondary school
21 purposes. School facility includes the buildings or structures,
22 playgrounds, landscape areas, athletic fields, school vehicles, or any
23 other area of school property visited or used by children attending the
24 school. School facility does not include a private school approved
25 under chapter 28A.195 RCW or any postsecondary educational facility
26 attended by secondary school students.

27 (40) "Snails or slugs" include all harmful mollusks.

28 (~~(40)~~) (41) "Unreasonable adverse effects on the environment"
29 means any unreasonable risk to people or the environment taking into
30 account the economic, social, and environmental costs and benefits of
31 the use of any pesticide, or as otherwise determined by the director.

32 (~~(41)~~) (42) "Weed" means any plant which grows where it is not
33 wanted.

34 **Sec. 3.** RCW 17.21.410 and 1994 c 283 s 33 are each amended to read
35 as follows:

36 (1) A certified applicator making a landscape application to:
37 (a) Residential property shall at the time of the application place
38 a marker at the usual point of entry to the property. If the

1 application is made to an isolated spot that is not a substantial
2 portion of the property, the applicator shall only be required to place
3 a marker at the application site. If the application is in a fenced or
4 otherwise isolated backyard, no marker is required.

5 (b) Commercial properties such as apartments or shopping centers
6 shall at the time of application place a marker in a conspicuous
7 location at or near each site being treated.

8 (c) A golf course shall at the time of the application place a
9 marker at the first tee and tenth tee or post the information in a
10 conspicuous location such as on a central message board.

11 ~~((A school, nursery school, or licensed day care shall at the
12 time of the application place a marker at each primary point of entry
13 to the school grounds.~~

14 ~~(e))~~) A park, cemetery, rest stop, or similar property as may be
15 defined in rule shall at the time of the application place a marker at
16 each primary point of entry.

17 ~~(2) ((An individual making a landscape application to a school
18 grounds, nursery school, or licensed day care, and not otherwise
19 covered by subsection (1) of this section, shall be required to comply
20 with the posting requirements in subsection (1)(d) of this section.~~

21 ~~(3))~~) The marker shall be a minimum of four inches by five inches.
22 It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the
23 headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger
24 size requirements for markers may be established in rule for specific
25 applications. The company name and service mark with the applicator's
26 telephone number where information can be obtained shall be included
27 between the headline and the footer on the marker. The letters and
28 service marks shall be printed in colors contrasting to the background.

29 ~~((4))~~) (3) The property owner or tenant shall remove the marker
30 according to the schedule established in rule. A commercial applicator
31 is not liable for the removal of markers by unauthorized persons or
32 removal outside the designated removal time.

33 ~~((5))~~) (4) A certified applicator who complies with this section
34 cannot be held liable for personal property damage or bodily injury
35 resulting from markers that are placed as required.

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

1 (1) A school shall notify students, parents or guardians of
2 students, and employees annually about the school's pest control
3 policies and methods, including any pesticides that may be used.

4 (2) A school shall provide posted and written notice to students,
5 parents or guardians of students, and employees at least forty-eight
6 hours before a school facility application.

7 (3) A school shall post notification signs at the treatment site,
8 in a central area at the school, and at points of entry at least forty-
9 eight hours before a school facility application. Signs shall remain
10 in place for at least one week following pesticide application to a
11 school facility. Notification signs shall be at least eight and
12 one-half by eleven inches.

13 (4) An individual making a landscape application to a school
14 facility shall at the time of application place a marker at each
15 primary point of entry to the school grounds. The marker shall be at
16 least eight and one-half by eleven inches. It shall have the words:
17 "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FOR MORE
18 INFORMATION PLEASE CALL" as the footer. The company name and service
19 mark with the applicator's telephone number where information can be
20 obtained shall be included between the headline and the footer on the
21 marker. The letters and service marks shall be printed in colors
22 contrasting to the background.

23 (5) An individual making a school facility application shall
24 display the name and telephone number of the applicator or the
25 applicator's employer on any power application apparatus, and shall
26 carry a material safety data sheet for each pesticide being applied.

27 (6) All notices and notification signs required under this section
28 shall include the signal word from the pesticide label alongside the
29 words "Pesticide/Herbicide Application"; for example, "WARNING:
30 PESTICIDE/HERBICIDE APPLICATION." Notices shall include:

- 31 (a) The name of the pesticide;
- 32 (b) The pesticide's active ingredient;
- 33 (c) The date and time of application;
- 34 (d) The area and rate of application; and
- 35 (e) The name and phone number of a contact person.

36 (7) A school facility application does not include the application
37 of antimicrobial pesticides as defined by 7 U.S.C. Sec. 136(mm), or the
38 placement of bait stations that are not accessible to children.

1 (8) Any school facility application during an extended break when
2 children are not present, and when the treatment ends no less than
3 ninety-six hours before the end of the break, shall send written notice
4 before to the beginning of the break. Any school application to a
5 landscape, athletic field, or outdoor structure during the break is
6 subject to posted notice requirements of this subsection.

7 (9) An applicator is not liable for the removal of markers by
8 unauthorized persons or removal outside the designated removal time.
9 An applicator who complies with this section may not be held liable for
10 personal property damage or bodily injury resulting from markers that
11 are placed as required.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.320
13 RCW to read as follows:

14 Schools shall provide notice of pesticide applications to students,
15 parents or guardians of students, and employees pursuant to chapter
16 17.21 RCW.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.15 RCW
18 to read as follows:

19 Day care centers shall provide notice of pesticide applications to
20 children, parents or guardians of children, and employees pursuant to
21 chapter 17.21 RCW.

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