
SENATE BILL 6479

State of Washington 56th Legislature 2000 Regular Session

By Senators Eide, McAuliffe, Goings, Brown, Patterson, Costa, Fraser, Jacobsen, Kline, Rasmussen and Kohl-Welles

Read first time 01/17/2000. Referred to Committee on Education.

1 AN ACT Relating to addressing concerns about pesticide use in
2 schools; amending RCW 17.21.020 and 17.21.400; adding a new section to
3 chapter 28A.320 RCW; adding a new section to chapter 74.15 RCW; and
4 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 any postsecondary educational
25 facility attended by secondary school students.

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

27 ((+40+)) (41) "Unreasonable adverse effects on the environment"
28 means any unreasonable risk to people or the environment taking into
29 account the economic, social, and environmental costs and benefits of
30 the use of any pesticide, or as otherwise determined by the director.

31 ((+41+)) (42) "Weed" means any plant which grows where it is not
32 wanted.

33 **Sec. 3.** RCW 17.21.400 and 1994 c 283 s 32 are each amended to read
34 as follows:

35 (1)(a) A certified applicator making a landscape application shall
36 display the name and telephone number of the applicator or the
37 applicator's employer on any power application apparatus. The

1 applicator shall also carry the material safety data sheet for each
2 pesticide being applied.

3 (b) A certified applicator making a right of way application shall
4 display the name and telephone number of the applicator or the
5 applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION"
6 on any power application apparatus. The applicator shall also carry
7 the material safety data sheet for each pesticide being applied.

8 (c) A certified applicator making a school facility application
9 shall post notification signs in a central area at the treatment site
10 and building entrances, forty-eight hours before pesticide application.
11 Signs shall remain in place for at least one week after pesticide
12 application. The school shall provide written notice to students,
13 parents, guardians, and employees forty-eight hours before pesticide
14 application.

15 (i) Posted and written notices shall state the name of the
16 pesticide, its active ingredient, the date and time of application, and
17 the area and rate of application. The header shall be the signal word
18 from the pesticide label alongside the words "Pesticide Application";
19 for example, "WARNING: PESTICIDE APPLICATION." Posted notices shall be
20 at least eight and one-half by eleven inches.

21 (ii) When a reasonable effort is made to substantially comply with
22 notice provisions of this subsection, the school district or school,
23 its employees, its chief administrator, and members of its governing
24 board are not liable in any criminal action or for civil damages in
25 their governmental or other capacities as a result of pesticide
26 application notice.

27 (iii) Any school facility application during an extended break of
28 one week or more, when the treatment ends no less than ninety-six hours
29 before the end of break, is exempt from the requirements in this
30 subsection.

31 (2) If a certified applicator receives a written request for
32 information on a landscape, school facility, or right of way spray
33 application, the applicator shall provide the requestor with the name
34 or names of each pesticide applied and (a) a copy of the material
35 safety data sheet for each pesticide; or (b) a pesticide fact sheet for
36 each pesticide as developed or approved by the department.

37 (3) Except as otherwise provided under subsection (1)(c)(i) of this
38 section, the director shall adopt rules establishing the size and

1 lettering requirements of the apparatus display signs required under
2 this section.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320
4 RCW to read as follows:

5 Schools shall provide notice of pesticide applications to students,
6 parents, guardians, and employees pursuant to RCW 17.21.400.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.15 RCW
8 to read as follows:

9 Day care centers shall provide notice of pesticide applications to
10 children, parents, guardians, and employees pursuant to RCW 17.21.400.

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