

Agriculture & Ecology Committee

HB 1451

Brief Description: *Regulating pesticide use in schools.*

Sponsors: *Representatives Cooper, G. Chandler, Linville, Marine, Rockefeller, Haigh, Simpson, Kagi and Keiser; by request of Department of Agriculture.*

Brief Summary of Bill

- *Requires any person making an application of a non-restricted use pesticide to a school facility to be licensed as a school facility applicator and establishes re-certification requirements for those so licensed;*
- *Requires each day care center, kindergarten, elementary school, and secondary school to provide certain notices of its pest control policies and methods and to provide notice of and post signs regarding applications of pesticides to its buildings and property, and provides exemptions from this requirement; and*
- *Expands the types of applications of pesticides to other landscapes for which notification markers must be placed and regarding which records must be kept.*

Hearing Date: *2/9/01*

Staff: *Kenneth Hirst (786-7105).*

Background:

Pesticide Registration and Use. *The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. 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. (7 U.S.C. Sec. 136 et seq.) At the state level, pesticides sold or distributed within the state must be registered under the Washington Pesticide Control Act. (Chapter 15.58 RCW.) The use or application of pesticides in the state is regulated under the Washington Pesticide*

Application Act. (Chapter 17.21 RCW.) These state laws are administered by the Washington State Department of Agriculture (WSDA).

Licenses. Among the persons who must be licensed by the WSDA to apply pesticides are persons (called commercial pesticide applicators) who are in the business of applying pesticides to the lands of others, their employees (commercial pesticide operators), government employees who apply restricted use pesticides (public operators), persons who use restricted use pesticides on their own agricultural lands (private applicators) or on their own lands for non-agricultural purposes (private commercial applicators), and demonstration and research applicators. (RCW 17.21.020, .070, .110, .122, .126, .129, and .220.)

Landscape Applications. Persons who are licensed as applicators must post markers when they make landscape applications of pesticides to schools, nursery schools or licensed day cares; to certain residential or commercial properties; to golf courses; or to parks, cemeteries, rest stops or similar properties identified by rule. These markers must provide certain specified information regarding the applications. (RCW 17.21.410.)

Recordkeeping. Licensed applicators, persons applying pesticides to more than one acre of agricultural land in a year, public entities making road-side applications of pesticides and, with certain exceptions, licensed applicators making landscape applications of pesticides must make and maintain certain specified records of the applications. (RCW 21.17.100.)

Summary of Bill:

Licenses Required for School Facility Applicators. It is unlawful for any person to use or supervise the use of any non-restricted use pesticide, except an antimicrobial pesticide, on a school facility without the person having a "school facility applicator" license from the WSDA. This requirement does not apply to persons already licensed under the Pesticide Application Act as private commercial applicators or public operators.. The fee for the license is \$25. (Section 1(41), 3, and 6.) If a person licensed as a school facility applicator is also licensed as a private applicator, the person is exempted from the licensing fee for the private applicator's license. (Section 4.) To qualify for re-licensure, a school facility applicator must accumulate at least 20 WSDA- approved continuing education credits every 5 years with no more than 8 credits in a year and not less than 4 credits regarding integrated pest management in schools. (Section 5.) School facility applicators must have and maintain the types of records of pesticide applications currently required of certified applicators and certain others. (Section 2(1).)

The "school facilities" subject to these requirements and requirements for notices and signs are facilities used for licensed day care center, kindergarten, or elementary or secondary school purposes, including the buildings, structures, playgrounds, landscape areas, athletic fields, school vehicles, and other areas of school property. (Section 1(40).)

A school facility applicator cannot apply a pesticide by means of any type of ground, water, or aerial equipment that uses motorized, mechanical, or pressurized power. This limitation does not apply to the use of pressurized hand-sized household devices used to apply a pesticide, to any device for which the person who is applying the pesticide is the source of

power or energy in making the application, or to any other small equipment, device, or contrivance that is transported in equipment licensed under the Act. (Sections 1(41) and 3.)

School Facility Applications: Notices and Signs. Each "school" must provide written notice annually, or upon enrollment, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements. The schools subject to this requirement are licensed day care centers, kindergartens, and elementary schools and secondary schools. Such a school must establish a system for notifying interested parents or guardians of students and employees at least 48 hours before a pesticide application to a school facility. The notification system must include posting of the notice in a prominent place in the main office of the school. (Section 8.)

Notices must lead with the heading "Notice: Pesticide Application" and must state:

- the product name of the pesticide to be applied;*
- the intended date and time of application;*
- the location to which the pesticide is to be applied;*
- the pest to be controlled; and*
- the name and phone number of a contact person at the school.*

A school facility application must be made within 48 hours following the intended date and time stated in the notice or the notification process must be repeated. The school must, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under current law. (Section 8.)

Notification signs for applications made to school grounds by school employees must be placed at the location of the application and at each primary point of entry to the school grounds. The signs must be a minimum of 4" by 5" and must include the words: "THIS LANDSCAPE HAS BEEN TREATED BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer must provide the name and telephone number of a contact person at the school.

Notification signs for applications made to school facilities other than school grounds must be posted at the location of the application. The signs must be a minimum of 8½" by 11" and must include the heading "Notice: Pesticide Application" and must state:

- the product name of the pesticide applied;*
- the date and time of application;*
- the location to which the pesticide was applied;*
- the pest to be controlled; and*
- the name and phone number of a contact person at the school.*

The signs must be printed in colors contrasting to the background and must remain in place for at least 24 hours from the time the application is completed or during the restricted re-entry interval required by the pesticide's label, whichever is longer. (Section 8.)

A school must make the records of all pesticide applications to school facilities readily accessible to interested persons. (Section 8.) A commercial pesticide applicator who

applies a pesticide to a school facility must provide a copy of the application record to the school within 24 hours. (Section 2(2).) A school is not liable for the removal of signs by unauthorized persons. A school that complies with these requirements may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required. (Section 8.)

Exemptions. These requirements regarding school facility applications do not apply to applications of antimicrobial pesticides intended for use as disinfectants or sanitizers or to the placement of insect or rodent baits that are not accessible to children. The pre-notification requirements do not apply: if the application is made when the school is not occupied by students for at least two consecutive days after the application; or to any emergency applications for controlling any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. (Section 8.)

Provisions Governing Other Types of Applications. The "landscape" applications of pesticides for which marking and other requirements are established under current law now include landscape applications of pesticides made, with certain exceptions, by any person, not just landscape applications made by certified applicators. The applications regulated in this manner are applications of pesticides to the exterior landscaped area, not just the plants in that area. (Section 1(27).) The pesticide application records that must now be made and maintained by licensed applicators and certain others must now also be made and maintained by any person who applies a pesticide to the exterior landscaped areas of commercial properties such as apartments or shopping centers; golf courses; schools, nursery schools, day cares; or parks, cemeteries, rest stops, or similar property identified by rule. Sections 1(27).) Exempted from the recordkeeping requirements for all who must keep them are applications of antimicrobial pesticides intended for use as disinfectants or sanitizers. (Sections 2(8) and 1(3).) As under current law, these requirements for marking and recordkeeping do not apply to applications made by licensed private applicators; to structural applications of pesticides made by licensed applicators; to certain pesticide applications made to control mosquitos; or to applications of pesticides to residences other than apartments. (Section 1(27).)

The waiver of liability established in current law for the placement or unauthorized removal of markers now applies to any person complying with the marker placement requirements for landscape applications. The location on a marker used for a landscape application for a commercial applicator's telephone number is changed. (Section 7.)

Appropriation: *None.*

Fiscal Note: *Requested on February 1, 2001.*

Effective Date: *The provisions of the bill requiring school facility applicator licenses and establishing the licensing fee and re-certification requirements take effect 90 days after the end of the regular session. The remaining provisions take effect July 1, 2002.*