
HOUSE BILL 1396

State of Washington

57th Legislature

2001 Regular Session

By Representatives Dickerson, Dunshee, Romero and Kenney

Read first time 01/25/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to the aerial application of pesticides; and
2 amending RCW 15.58.065, 15.58.060, and 15.58.150.

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

4 **Sec. 1.** RCW 15.58.065 and 1989 c 380 s 5 are each amended to read
5 as follows:

6 (1) In submitting data required by this chapter, the applicant may:

7 (a) Mark clearly any portions which in the applicant's opinion are
8 trade secrets or commercial or financial information; and

9 (b) Submit such marked material separately from other material
10 required to be submitted under this chapter.

11 (2) Except as provided in subsection (4) of this section and
12 notwithstanding any other provision of this chapter or other law, the
13 director shall not make public information which in the director's
14 judgment should be privileged or confidential because it contains or
15 relates to trade secrets or commercial or financial information except
16 that, when necessary to carry out the provisions of this chapter,
17 information relating to unpublished formulas of products acquired by
18 authorization of this chapter may be revealed to any state or federal

1 agency consulted and may be revealed at a public hearing or in findings
2 of fact issued by the director when necessary under this chapter.

3 (3) If the director proposes to release for inspection information
4 which the applicant or registrant believes to be protected from
5 disclosure under subsection (2) of this section, the director shall
6 notify the applicant or registrant in writing, by certified mail. The
7 director shall not thereafter make available for inspection such data
8 until thirty days after receipt of the notice by the applicant or
9 registrant. During this period, the applicant or registrant may
10 institute an action in the superior court of Thurston county for a
11 declaratory judgment as to whether such information is subject to
12 protection under subsection (2) of this section.

13 (4) No agency or entity of state government and no unit of local
14 government or agency of such a local government may purchase or
15 otherwise acquire directly or indirectly a pesticide for an aerial
16 application of the pesticide to any part of an incorporated area within
17 this state unless the formula of the product to be used, including both
18 active and inert ingredients, is available for public inspection and
19 the person for whom the pesticide is registered voluntarily agrees to
20 disclose the formula to the public for the purpose of the aerial
21 application. No agency or entity of state government and no unit of
22 local government or agency of such a local government may make directly
23 or indirectly an aerial application of a pesticide to any part of an
24 incorporated area within this state unless the formula of the product
25 to be used, including both active and inert ingredients, is available
26 for public inspection and the person for whom the pesticide is
27 registered voluntarily agrees to disclose the formula to the public for
28 the purpose of the aerial application.

29 The disclosure of information to the public required by this
30 subsection shall be made, as a minimum, by providing the formula to any
31 person who requests it. The information shall be made available for
32 disclosure beginning not more than five days after the purchase or
33 acquisition of the pesticide for such an aerial application and in no
34 case less than twenty days before the aerial application is to be made.

35 For the purposes of this subsection, an "aerial application" of a
36 pesticide is one in which an aircraft is used to make the application.

37 (5) Subsections (2) and (3) of this section do not apply to
38 disclosures voluntarily agreed to under subsection (4) of this section.

1 **Sec. 2.** RCW 15.58.060 and 1989 c 380 s 4 are each amended to read
2 as follows:

3 (1) The applicant for registration shall file a statement with the
4 department which shall include:

5 (a) The name and address of the applicant and the name and address
6 of the person whose name will appear on the label, if other than the
7 applicant's;

8 (b) The name of the pesticide;

9 (c) The complete formula of the pesticide, including the active and
10 inert ingredients: PROVIDED, That, except as provided in RCW
11 15.58.065(4), confidential business information of a proprietary nature
12 is not made available to any other person and is exempt from disclosure
13 as a public record, as provided by RCW 42.17.260;

14 (d) Other necessary information required for completion of the
15 department's application for registration form; and

16 (e) A complete copy of the labeling accompanying the pesticide and
17 a statement of all claims to be made for it, including the directions
18 and precautions for use.

19 (2) The director may require a full description of the tests made
20 and the results thereof upon which the claims are based.

21 (3) The director may prescribe other necessary information by rule.

22 **Sec. 3.** RCW 15.58.150 and 2000 c 96 s 6 are each amended to read
23 as follows:

24 (1) It is unlawful for any person to distribute within the state or
25 deliver for transportation or transport in intrastate commerce or
26 between points within this state through any point outside this state
27 any of the following:

28 (a) Any pesticide which has not been registered pursuant to the
29 provisions of this chapter;

30 (b) Any pesticide if any of the claims made for it or any of the
31 directions for its use or other labeling differs from the
32 representations made in connection with its registration, or if the
33 composition of a pesticide differs from its composition as represented
34 in connection with its registration: PROVIDED, That at the discretion
35 of the director, a change in the labeling or formula of a pesticide may
36 be made within a registration period without requiring reregistration
37 of the product;

1 (c) Any pesticide unless it is in the registrant's or the
2 manufacturer's unbroken immediate container and there is affixed to
3 such container, and to the outside container or wrapper of the retail
4 package, if there is one through which the required information on the
5 immediate container cannot be clearly read, a label bearing the
6 information required in this chapter and the rules adopted under this
7 chapter;

8 (d) Any pesticide including arsenicals, fluorides, fluosilicates,
9 and/or any other white powdered pesticides unless they have been
10 distinctly denatured as to color, taste, odor, or form if so required
11 by rule;

12 (e) Any pesticide which is adulterated or misbranded, or any device
13 which is misbranded;

14 (f) Any pesticide in containers, violating rules adopted pursuant
15 to RCW 15.58.040(2)(f) or pesticides found in containers which are
16 unsafe due to damage.

17 (2) It shall be unlawful:

18 (a) To sell or deliver any pesticide to any person who is required
19 by law or rules promulgated under such law to be certified, licensed,
20 or have a permit to use or purchase the pesticide unless such person or
21 the person's agent, to whom sale or delivery is made, has a valid
22 certification, license, or permit to use or purchase the kind and
23 quantity of such pesticide sold or delivered: PROVIDED, That, subject
24 to conditions established by the director, such permit may be obtained
25 immediately prior to sale or delivery from any person designated by the
26 director;

27 (b) For any person to detach, alter, deface or destroy, wholly or
28 in part, any label or labeling provided for in this chapter or rules
29 adopted under this chapter, or to add any substance to, or take any
30 substance from, a pesticide in a manner that may defeat the purpose of
31 this chapter or the rules adopted thereunder;

32 (c) For any person to use or cause to be used any pesticide
33 contrary to label directions or to regulations of the director if those
34 regulations differ from or further restrict the label directions:
35 PROVIDED, The compliance to the term "contrary to label directions" is
36 enforced by the director consistent with the intent of this chapter;

37 (d) For any person to use for his or her own advantage or to
38 reveal, other than to the director or proper officials or employees of
39 the state, or to the courts of the state in response to a subpoena, or

1 to physicians, or in emergencies to pharmacists and other qualified
2 persons for use in the preparation of antidotes, or as provided in RCW
3 15.58.065(4), any information relative to formulas of products acquired
4 by authority of RCW 15.58.060;

5 (e) For any person to make false, misleading, or erroneous
6 statements or reports concerning any pest during or after a pest
7 inspection or to fail to comply with criteria established by rule for
8 structural pest inspections;

9 (f) For any person to make false, misleading, or erroneous
10 statements or reports in connection with any pesticide complaint or
11 investigation;

12 (g) For any person to advertise that the person is a licensed
13 structural pest inspector without having a valid pest control
14 consultant license in the category of structural pest inspector.

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