

HOUSE BILL REPORT

SHB 2300

As Amended by the Senate

Title: An act relating to applying pesticides.

Brief Description: Applying pesticides.

Sponsors: By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler and McMorris; by request of Department of Agriculture).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/13/04, 1/20/04 [DPS].

Floor Activity:

Passed House: 2/12/04, 95-0.

Senate Amended.

Passed Senate: 3/5/04, 49-0.

Brief Summary of Substitute Bill

- Converts a pilot project for authorizing certain limited pesticide application licenses into a permanent program, and expands the program to include all of eastern Washington.
- Alters the description of regulated spray adjuvants and allows the ingredient statements for them to be set by rule.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

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. At the state level, pesticides sold or distributed within the state must be registered under the Washington Pesticide Control Act. The use or application of pesticides in the state is regulated under the Washington Pesticide Application Act. These state laws are administered by the Washington State Department of Agriculture (WSDA).

A pilot project establishing licenses for certain limited applications of pesticides was authorized by legislation enacted in 1997. As expanded in 1999, the pilot project provided for limited private applicator and rancher private applicator licenses for applications of pesticides on certain lands in Ferry, Okanogan, Stevens, and Pend Oreille counties. The application of herbicides to aquatic sites is not permitted under these licenses and continuing education requirements apply to these licenses. The pilot project is to expire December 31, 2004.

Summary of Substitute Bill:

Licensing categories. On January 1, 2005, the licensing categories of a limited private applicator and rancher private applicator no longer exist on just a pilot project basis and they apply in all of eastern Washington.

A limited private applicator is one who uses or is in direct supervision of the use of any herbicide classified as a restricted use pesticide, for the sole purpose of controlling weeds on non-production agricultural land owned or rented by the applicator or the applicator's employer. (Non-production agricultural lands are pastures, rangeland, fence rows, and areas around farm buildings, but not aquatic sites.) Such an applicator may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under the state's noxious weed control laws or under state and county regulations adopted under those laws. A limited private applicator may apply restricted use herbicides to these types of land that belong to another person if the herbicides are applied without compensation other than trading of personal services between the applicator and the other person.

A rancher private applicator is one who uses or is in direct supervision of the use of any herbicide or any rodenticide classified as a restricted use pesticide for the purpose of controlling weeds and pest animals on non-production agricultural land and limited production agricultural land owned or rented by the applicator or the applicator's employer. (Limited production agricultural land is land, other than aquatic sites, used to grow hay and grain crops that are consumed by the livestock on the farm where produced. Not more than 10 percent of the hay and grain crops grown on limited

production agricultural land may be sold each crop year.) Rancher private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under the state's noxious weed control laws or under state and county regulations adopted under those laws. A rancher private applicator may apply restricted use herbicides and rodenticides to these types of land that belong to another person if they are applied without compensation other than trading of personal services between the applicator and the other person.

Applicants for licenses in the two licensing categories must be at least 16 years of age. The licenses expire on the last day of the fifth year after they are issued. Renewing a rancher private applicator license after its expiration is subject to a penalty of \$25; for a limited private applicator, it is equal to the licensing fee. The landscape application of pesticides does not include applications by limited private applicators or rancher private applicators.

Fees. The licensing fees for a limited private applicator and rancher private applicator under the pilot program are retained in statute for the permanent program. The exemptions from the fee requirement provided by statute for a private applicator also apply to the two new licensing categories.

Recertification requirements. Limited private applicators must accumulate a minimum of eight WSDA-approved credits every five years. All credits must be applicable to the control of weeds. At least one-half of the credits must be directly related to weed control and the remaining must be in topic areas indirectly related to weed control, such as the safe and legal use of pesticides. Rancher private applicators must accumulate a minimum of 12 WSDA-approved credits every five years.

Pesticide Control and Pesticide Application Acts - Generally. The ingredient statement required for a pesticide under the state's Pesticide Control Act for a spray adjuvant is not expressly limited to containing only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants, nor, if more than three functioning agents are present, to only the names of the three principal agents. The statement must be consistent with labeling requirements adopted by rule

The description of a spray adjuvant regulated under the state's Pesticide Control Act and Pesticide Application Act is altered and expressly does not include a product that is only intended to mark the location where a pesticide is applied.

EFFECT OF SENATE AMENDMENT(S):

The striking amendment expressly applies the \$25 and \$75 dollar licensing fees referred to in the bill to the renewal of those licenses as well; and allows the limited private applicator and rancher private applicator licenses to be used to control weeds that a weed district requires to be controlled.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2005.

Testimony For: (1) The pilot project established for licenses for limited applications of pesticides has been very successful. The very narrow licensing categories encouraged the desired control activities. Targeting continuing education requirements to these limited areas has resulted in an availability of classes similarly tailored. (2) Making the program permanent will not adversely affect the other parts of the licensing program. (3) The licensing fees should be established by statute, not by rule.

Testimony Against: None presented.

Persons Testifying: (In support) Leslie Emerick, Margaret Tucker and Ted Maxwell, Washington State Department of Agriculture; Steve McGonigal, Washington State Noxious Weed Control Board; and Sheilah Kennedy, Okanogan County Noxious Weed Control Board.

(In support with changes) Heather Hansen, Washington Friends of Farms and Forests; and Dan Coyne, Crop Life America and Responsible Industry for a Sound Environment.

Persons Signed In To Testify But Not Testifying: None.