
Commerce & Labor Committee

HB 1863

Brief Description: Restricting use of highly toxic pesticides.

Sponsors: Representatives Conway, Kenney, Campbell, Chase, Wood and Hasegawa.

Brief Summary of Bill

- Prohibits employers from dispersing highly toxic pesticides in labor-intensive crops.
- Prohibits agricultural employers from allowing employees to transfer, mix, or load highly toxic pesticides unless the employees use closed systems.
- Prohibits employers from allowing employees to perform hand labor on labor-intensive crops treated with highly toxic pesticides unless the employers provide the employees with gloves.

Hearing Date: 2/24/05

Staff: Jill Reinmuth (786-7134).

Background:

The Department of Labor and Industries administers and enforces the Washington Industrial Safety and Health Act (WISHA). Its activities include promulgating safety and health standards, providing consultation and advice, and conducting inspections and investigations. Safety and health standards adopted by the Department of Labor and Industries under WISHA must be at least as effective as those adopted by the United States Secretary of Labor under the federal Occupational Safety and Health Act. Such standards must "assure, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life." Such standards also must "require where appropriate the use of protective devices or equipment."

The Department of Agriculture administers and enforces the Federal Insecticide, Fungicide and Rodenticide Act, as well as the state Pesticide Control Act and the state Pesticide Application Act. Its activities include adopting rules requiring the registration and restricting the use of pesticides, testing and certifying pesticide applicators, issuing handler and worker pesticide training documentation, and providing technical assistance to pesticide applicators and workers.

The Department of Labor and Industries and the Department of Agriculture have adopted identical rules on worker protection from pesticides. These rules are similar, but slightly more stringent than the federal Environmental Protection Agency's Worker Protection Standard for Agricultural Workers and Handlers. The Department of Labor and Industries is designated as the lead agency for purposes of enforcing these rules.

These rules impose various duties on agricultural employers. For example, agricultural employers must:

- Assure that pesticides are used in a manner consistent with their labels;
- Notify workers of pesticide applications and post pesticide safety posters;
- Assure that certain workers has been trained in pesticide safety;
- Provide certain personal protective equipment to pesticide handlers; and
- Provide decontamination supplies and emergency assistance to workers poisoned or injured by exposure to pesticides.

Summary of Bill:

Employers and their employees and agents are prohibited from dispersing the following pesticides in labor-intensive crops:

- Category 1 highly-toxic pesticides after January 1, 2008;
- Category 2 highly-toxic pesticides after January 1, 2010; and
- Certain other highly toxic pesticides after January 1, 2012.

There are two exceptions to this prohibition. First, an institution of higher education may use highly toxic pesticides for research purposes only. Second, until January 1, 2015, the director of the Department of Labor and Industries may authorize the dispersed use of a highly toxic pesticide on a labor-intensive crop.

The director may authorize such use only if he or she does the following:

- Finds in rule that the prohibition is likely to cause severe economic hardship to a substantial portion of the affected industry, and that there are no feasible alternative substances or practices;
- Imposes mitigation measures or limits time periods to protect agricultural workers; and
- Notifies research institutions to facilitate research on alternative substances or practices.

The director is required to provide for restrictions on the use of highly toxic pesticides. These restrictions must ensure that employees do not suffer material impairment of health or functional capacity even if they have regular exposure to these pesticides during their working life.

The director is required, by January 1, 2007, to review pesticides used on labor-intensive crops and develop a list of the highly toxic pesticides that should be restricted after January 1, 2012, because of health hazards. The list must include pesticides containing carcinogens, reproductive toxicants, and developmental toxicants. The director also must determine whether new pesticides are highly toxic pesticides that should be restricted. The director may rely on another state or federal agency's determination that a pesticide meets this criteria.

Agricultural employers are prohibited, after January 1, 2006, from allowing employees to transfer, mix, or load category one and category two highly toxic pesticides in certain forms unless the employees use closed systems.

Employers are prohibited, after January 1, 2006, from allowing employees to perform certain hand labor on labor-intensive crops treated with highly toxic pesticides unless the employers provide the employees with certain gloves.

The director must adopt, after January 1, 2006, rules requiring "necessary and feasible" mitigation measures before the use of highly toxic pesticides is terminated.

Various terms are defined, including "category one highly toxic pesticide," "category two highly toxic pesticide," "closed system," "dispersed use," "labor-intensive crop," "pesticide," and "severe economic hardship."

Rule-Making Authority: The bill contains requires the director of the Department of Labor and Industries to adopt rules in two instances. First, if the use of certain highly toxic pesticides is authorized, the director must make certain findings in rule. Second, the director must adopt necessary and feasible mitigation measures in rule.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.