
HOUSE BILL 1863

State of Washington 59th Legislature 2005 Regular Session

By Representatives Conway, Kenney, Campbell, Chase, Wood and Hasegawa

Read first time 02/08/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to agricultural worker safety and health in the use
2 of highly toxic pesticides; adding a new chapter to Title 49 RCW; and
3 providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The purpose of this chapter is to protect
6 Washington farm workers from highly toxic pesticides in the workplace.
7 The legislature finds that:

8 (1) Certain pesticides dispersed in Washington workplaces are
9 highly toxic even in small amounts. Exposure to these pesticides may
10 result in severe illness and may cause long-lasting effects;

11 (2) There are less toxic substitutes for many highly toxic
12 pesticides;

13 (3) Principles of workplace safety support the substitution of less
14 toxic materials or alternative practices, where available, in order to
15 protect workers from exposure to highly toxic substances; and

16 (4) Principles of workplace safety should be applied to the
17 handling and dispersed use of highly toxic pesticides by requiring
18 substitution of less toxic substances or alternative practices, where

1 available, and by promoting the development of alternative substances
2 or practices in cases where they are not currently available.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1)(a) "Category one highly toxic pesticide" means a pesticide
6 determined by the director to:

7 (i) Have an inhalation LD-50 of 0.2 milligrams per liter or less
8 for a period of one hour;

9 (ii) Have a dermal LD-50 of two hundred milligrams per kilogram or
10 less;

11 (iii) Have an oral LD-50 of fifty milligrams per kilogram or less;

12 (iv) Be corrosive to the eyes, or cause corneal opacity not
13 reversible within seven days; or

14 (v) Be corrosive to the skin.

15 (b) For purposes of this subsection, the director may rely upon the
16 determination by another state or federal agency that a pesticide meets
17 the toxicity criteria described in this subsection.

18 (2)(a) "Category two highly toxic pesticide" means an
19 organophosphate or N-methyl-carbamate pesticide determined by the
20 director to:

21 (i) Have an inhalation LD-50 of greater than 0.2 milligrams per
22 liter and up to two milligrams per liter for a period of one hour;

23 (ii) Have a dermal LD-50 of greater than two hundred milligrams per
24 kilogram and up to two thousand milligrams per kilogram;

25 (iii) Have an oral LD-50 of greater than fifty milligrams per
26 kilogram and up to five hundred milligrams per kilogram; or

27 (iv) Cause severe irritation to the eyes or skin seventy-two hours
28 after application.

29 (b) For purposes of this subsection, the director may rely upon the
30 determination by another state or federal agency that a pesticide meets
31 the toxicity criteria described in this subsection.

32 (3) "Closed system" means a procedure for removing a pesticide from
33 its original container, rinsing the emptied container, and transferring
34 the pesticide product, mixtures and dilutions and rinse solution
35 through connecting hoses, pipes, and couplings that are sufficiently
36 tight to prevent exposure of a person to the pesticide or rinse
37 solution, or through water soluble packets.

1 (4) "Director" means the director of the department of labor and
2 industries.

3 (5) "Dispersed use" means the intentional application of a highly
4 toxic pesticide by aircraft, power blast equipment, sprayer, or other
5 means to disseminate the pesticide in the workplace.

6 (6) "Labor-intensive crop" means a crop requiring substantial hand
7 labor for planting, thinning, cultivating, pruning, harvesting, or
8 other agricultural activities. "Labor-intensive crops" include but are
9 not limited to apples, cherries, peaches, berries, hops, grapes,
10 asparagus, pears, plums, nectarines, onions, cucumbers, cauliflower,
11 and squash. By virtue of mechanization, crops such as, but not limited
12 to, wheat, oats, and barley are excluded unless substantial hand labor
13 is used.

14 (7) "LD-50" means a median lethal dose or concentration.

15 (8) "Pesticide" means, but is not limited to:

16 (a) A substance or mixture of substances intended to prevent,
17 destroy, control, repel, or mitigate insects, rodents, snails, slugs,
18 fungi, weeds, and other forms of plant or animal life or virus, except
19 a virus on or in a living person or animal, that is normally considered
20 to be a pest or that the director may declare to be a pest;

21 (b) A substance or mixture of substances intended to be used as a
22 plant regulator, defoliant, or desiccant; or

23 (c) A spray adjuvant.

24 (9) "Severe economic hardship" means economic circumstances that
25 create a serious threat to the existence or competitive structure of
26 the industry.

27 NEW SECTION. **Sec. 3.** The director shall provide for restrictions
28 on the use of highly toxic pesticides identified under this chapter in
29 accordance with RCW 49.17.050(4). The restrictions must ensure, using
30 the best available evidence, that no employee will suffer material
31 impairment of health or functional capacity even if the employee has
32 regular exposure to these pesticides during his or her working life.

33 NEW SECTION. **Sec. 4.** Except as provided in sections 5 and 9 of
34 this act, no employer, or employee or agent of the employer, may
35 disperse the following pesticides in a labor-intensive crop:

36 (1) Category one highly toxic pesticides after January 1, 2008;

- 1 (2) Category two highly toxic pesticides after January 1, 2010; and
- 2 (3) Highly toxic pesticides identified under section 6 of this act
- 3 after January 1, 2012.

4 NEW SECTION. **Sec. 5.** (1) The director may authorize the dispersed
5 use of a highly toxic pesticide on a labor-intensive crop if the
6 director finds by rule after a public hearing in accordance with RCW
7 34.05.325 that prohibition of the dispersed use of a highly toxic
8 pesticide is likely to cause severe economic hardship to a substantial
9 portion of the affected industry, and that no feasible alternative
10 substances or practices are available.

11 (2) If the director authorizes an extension of the dispersed use of
12 a highly toxic pesticide, the director shall impose additional
13 mitigation measures or limit the time period of such extension in order
14 to protect agricultural workers.

15 (3) If the director authorizes an extension of the dispersed use of
16 a highly toxic pesticide, the director shall immediately notify
17 appropriate research institutions and programs of the state, including
18 the University of Washington and Washington State University, in order
19 to facilitate research into alternative substances and practices.

20 (4) This section expires January 1, 2015.

21 NEW SECTION. **Sec. 6.** (1) By January 1, 2007, the director shall
22 review agricultural pesticides used on labor-intensive crops in
23 Washington state and develop a list of highly toxic pesticides that
24 should be restricted under section 4(3) of this act because of the
25 acute, chronic, or subchronic health hazards they pose. The list shall
26 include, at a minimum, all pesticide products containing known, likely,
27 or probable carcinogens, reproductive toxicants, or developmental
28 toxicants, as active ingredients.

29 (2) The director may rely upon the determination by another state
30 or federal agency that a pesticide meets the toxicity criteria
31 described in this section.

32 NEW SECTION. **Sec. 7.** When new pesticides are registered for use
33 in the state of Washington, the director shall determine whether they
34 are highly toxic pesticides under this chapter, and shall prohibit the

1 use of such pesticides on labor-intensive crops pursuant to this
2 chapter.

3 NEW SECTION. **Sec. 8.** (1) After January 1, 2006, no agricultural
4 employer shall allow any employee to transfer, mix, or load a pesticide
5 designated as a category one or category two highly toxic pesticide, if
6 the pesticide is in liquid form or diluted liquid mixes derived from
7 dry pesticides, except through a closed system.

8 (2) After January 1, 2006, no employer shall allow employees to
9 plant, thin, prune, harvest, cultivate, or perform other hand labor on
10 labor-intensive crops treated with highly toxic pesticides unless the
11 employer provides the employees with gloves that meet requirements
12 established in rule by the director to limit pesticide exposure among
13 employees performing hand labor in labor-intensive crops.

14 (3) After January 1, 2006, the director shall adopt by rule any
15 mitigation measures in addition to those required in subsections (1)
16 and (2) of this section, if the director determines such measures are
17 necessary and feasible under section 3 of this act before such use is
18 terminated in accordance with section 4 of this act.

19 NEW SECTION. **Sec. 9.** An institution of higher education that is
20 otherwise authorized to use highly toxic pesticides may use these
21 materials for research purposes only.

22 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
23 a new chapter in Title 49 RCW.

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