

# HOUSE BILL REPORT

## HB 1806

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**As Reported by House Committee On:**  
Environmental Health, Select  
Appropriations

**Title:** An act relating to pesticide application in school facilities.

**Brief Description:** Limiting the use of high hazard pesticides on school facilities.

**Sponsors:** Representatives Pedersen, Upthegrove, Campbell, Kenney, McDermott, Morrell, Chase, Appleton, Dunshee, McIntire, Santos, Moeller, Darneille, Roberts, Hudgins, Hunt, Hasegawa, Conway, O'Brien, Green, Rolfes, Simpson, Schual-Berke, Goodman, Wood and Lantz.

**Brief History:**

**Committee Activity:**

Select Committee on Environmental Health: 2/6/07, 2/15/07 [DPS];

Appropriations: 2/27/07, 3/1/07 [DP2S(w/o sub ENVH)].

**Brief Summary of Second Substitute Bill**

- Requires the State Board of Health (Board) to adopt by rule a list of products that the Board considers to pose a high hazard to the health of children or staff if applied in or on school facilities.
- Requires the Washington State School Directors' Association, in consultation with the Department of Health and the Department of Agriculture, to develop a model integrated pest management policy that emphasizes use of non-chemical pest control measures and allows use of high-hazard pesticides only as a last resort.

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### HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Chase, Hunt, Morrell and Wood.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member and Hailey.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Brad Avy (786-7289).

**Background:**

Pests common in schools can harm both children and adults. Pests can spread disease, cause allergies and asthma attacks, precipitate allergy attacks from stings, contaminate food, cause painful bites, and cause structural damage. Pesticides are powerful tools for controlling these risks.

Children are more sensitive than adults to pesticides. Young children can have greater exposure to pesticides from crawling, exploring, or other hand-to-mouth activities. Since children spend much of their day at school it is important to limit children's exposure to the hazardous effects of pesticides.

The Environmental Protection Agency is responsible for regulating the use of pesticides at the national level. The Department of Agriculture (DOA), the Department of Labor and Industries, and the Department of Ecology (DOE) regulate pesticides in Washington.

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**Summary of Substitute Bill:**

The Legislature finds that children are more vulnerable than adults to the hazardous effects of pesticides. The intent of the bill is to limit, for the protection of students and staff, the use of high hazard pesticides in and on school facilities.

The Office of the Superintendent of Public Instruction, in consultation with the Department of Health (DOH) and the DOA, is required to develop a model integrated pest management policy by March 2008 that emphasizes use of non-chemical pest control measures and allows use of high-hazard pesticides only as a last resort.

No person may apply a high hazard pesticide at a school facility except when authorized by the principal of a school at his or her facility under a single-use waiver. The waiver may be authorized only if the following conditions are met:

- an immediate human health or safety hazard exists that warrants the use of a high hazard pesticide;
- nonchemical or least-toxic pest prevention and control measures have been used unsuccessfully;
- the underlying causes of the pest outbreak will also be addressed by other actions to prevent future outbreaks; and
- students or staff other than those making the application are not in the area at the time of application or for forty-eight hours following the application.

The bill does not limit the authority of a county health officer, state agency, mosquito control district, or noxious weed control board that is responsible for pest management decisions regarding school facilities to make decisions and take actions regarding school facilities.

The bill does not limit the authority of the director of a licensed day care center or the officers of a school district to establish pesticide application policies that are more restrictive.

The State Board of Health (Board) is required to adopt by rule a list of products that the Board considers to pose a high hazard to the health of children or staff if applied in or on school facilities.

The Board must include in the list products that meet the criteria of toxicity category I or toxicity category II for pesticides as defined by the United States Environmental Protection Agency in 40 C.F.R. Sec. 156.62 as it exists on the effective date of this section.

The Board must consider including in the list the following general categories of pesticides:

- known or probable carcinogens;
- known or probable endocrine disruptors;
- pesticides known to have chronic neurologic effects;
- pesticides known to cause birth defects;
- reproductive harm, or developmental harm; or
- pesticides that are persistent in soil.

The Board must review and update this list every five years.

Application of a pesticide in violation of the bill is in violation of and subject to penalties under the Washington Pesticide Application Act.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill requires the Office of the Superintendent of Public Instruction, in consultation with the DOH and the DOA, to develop a model integrated pest management policy by March 2008 that emphasizes use of non-chemical pest control measures and allows use of high-hazard pesticides only as a last resort. Continuing education for licensed applicators in integrated pest management techniques is identified as a way to help limit the use of high hazard pesticides. The substitute bill refines the list of high hazard products to be developed by the Board. The authorizing authority for single-use waivers is changed from the board of directors of a school district or the superintendent of the district to the principal of a school at his or her facility.

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**Appropriation:** None.

**Fiscal Note:** Requested January 30, 2007.

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

#### **Staff Summary of Public Testimony:**

(In support) We need to take care of our kids in our school environments. Nine school districts are already taking a similar approach to pesticide management. There needs to be a

stronger incentive for the remaining school districts. Children are more susceptible to the toxic effects of pesticides. The bill will provide for greater supervisor accountability for how pesticides are used. Alternative products and approaches to pesticides are effective. School districts are very resistant to change and will wait out concerned parents.

(Opposed) The bill is another unfunded mandate. It will ban almost all pesticides at schools. The use of an integrated pest management approach needs to be considered. The bill may increase reliance on unstudied and unregulated alternatives. The broad definition of high hazard pesticides is a concern. The method of pesticide application, increased costs, and labor requirements need to be taken into account. The bill ties the hands of pesticide applicators. Risk is a function of toxicity and exposure. The method of pesticide application and potential for exposure need to be taken into account.

**Persons Testifying:** (In support) Greg Small, Washington Toxics Coalition; Ruth Shearer; Liesl Zappler; Eddie Bates; Maria Mason, Coalition for Environmentally Safe Schools; Therese Cushing; Kate Vidales; Aleia Webb; and Ellen Zito.

(Opposed) Mitch Denning, Alliance of education Associations; Heather Hansen, Washington Friends of Farms and Forests; Dan Coyne, Responsible Industry for a Sound Environment; and Larry Treleven.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Select Committee on Environmental Health. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and P. Sullivan.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Dunn, Hinkle, Kretz, McDonald, Priest and Walsh.

**Staff:** Alicia Dunkin (786-7178).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Select Committee on Environmental Health:**

The second substitute bill requires the Washington State School Directors' Association, instead of the Office of the Superintendent of Public Instruction, to develop a model child-friendly pest management policy. It also removes the prohibition to apply high hazard pesticides at a school facility, the provision for a single-use waiver, and the penalty provision. The second

substitute bill extends the pest management policy due date by six months, and adds to the intent section.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Testing has shown the health impacts of the use of pesticides around kids in schools and daycare facilities. We are willing to work on reducing the cost of the fiscal note. The current reporting system does not provide information on long-term or cumulative impacts to children due to pesticides but only the acute impacts. The bill does not go far enough, it only includes the Environmental Protection Agency's (EPA) toxicity categories one and two and does not include toxicity category three. The bill would not ban limited use of pesticides, including the EPA's most toxic categories and other items defined on the Department of Health's list. Exceptions include when children are not present these chemicals can be used. This bill would make the use of toxic chemicals a last resort to prevent long-term illnesses to kids.

(Opposed) We currently have rules that are established to protect children and allow maintenance to manage weeds and pests at schools. When schools are requesting a levy from voters, it is important that the facility looks good. This bill would require pre-notification to apply pesticides if the site will be occupied within 48 hours, which will not work if maintenance has to deal with hobo spiders, cockroaches, or other pests where the school will not have time to wait for a waiver. Sports fields cost hundreds of thousands of dollars and without the use of herbicides we would lose that investment because we cannot pull these weeds by hand. The data shows that most of the incidents of exposure to children has been from a teacher using a can of Raid and not from professionally trained maintenance people. Funds would be better spent on training other personnel as schools rather than on this because the Department of Health currently has this type of program.

**Persons Testifying:** (In support) Representative Pedersen, prime sponsor; Nick Federici, Washington Toxics Coalition; and Ruth Shearer.

(Opposed) Carl Larson, Washington Association of Maintenance and Operations Administrators; Heather Hansen, Washington Friends of Farms and Forests; and Mitch Denning, Alliance of Education Associations.

**Persons Signed In To Testify But Not Testifying:** None.