

SENATE BILL REPORT

SB 5550

As Reported by Senate Committee On:
Labor & Commerce, February 5, 2019
Ways & Means, February 25, 2019

Title: An act relating to implementing the recommendations of the pesticide application safety work group.

Brief Description: Implementing the recommendations of the pesticide application safety work group.

Sponsors: Senators Saldaña, Warnick, Conway, Das, Hasegawa, Keiser, King, Rolfes and Van De Wege.

Brief History:

Committee Activity: Labor & Commerce: 1/24/19, 2/05/19 [DP-WM].

Ways & Means: 2/12/19, 2/25/19 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Establishes the pesticide application safety committee to explore how state agencies collect and track data; and consider the feasibility and requirements of developing a shared database, including how the Department of Health could use existing tools to better display multiagency data regarding pesticides.
- Creates an advisory work group to collect information and make recommendations to the committee.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That Substitute Senate Bill No. 5550 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Billig, Carlyle, Conway, Darnelle, Hasegawa, Hunt, Keiser, Lias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Becker, Wagoner and Wilson, L..

Staff: Julie Murray (786-7711)

Background: In 2018, the Legislature passed ESSB 6529. The legislation established a pesticide application safety work group to review existing state and federal law on pesticide safety and application, arrange for a presentation about technologies, review the structure of the former review panel, and review data and reports from state agencies and other states' relevant agencies. Work group members included legislators from both chambers and caucuses, as well as representation from state agencies and the Commission on Hispanic Affairs.

The work group provided a report to the Legislature called Pesticide Application Safety. The report included the following recommendations regarding what can be done now to improve pesticide application safety:

- expand training—the Washington State Department of Agriculture (WSDA) lacks sufficient resources to meet the training demand from pesticide applicators and handlers; and
- establish a new pesticide application safety panel—the panel would provide an opportunity to evaluate and recommend policy options, and investigate exposure cases.

In the report, the workgroup concluded that draft legislation was warranted to expand funding for a training program and set up a new pesticide application safety panel with clear objectives.

Summary of Bill (First Substitute): The pesticide application safety committee is established. The committee is composed of:

- legislative members from both houses;
- agency heads from WSDA, the Washington State Department of Health (DOH), the Department of Labor and Industries, and Public Lands;
- the dean of Washington State University's College of Agricultural, Human, and Natural Resource Sciences;
- the director of the University of Washington Pacific Northwest Agricultural Safety and Health Center; and
- the pesticide safety education coordinator at the Washington State University cooperative extension.

The secretary of DOH and director of WSDA are the committee co-chairs. The committee must hold its first meeting by September 2019 and must meet at least three times each year and consider methods to reduce meeting costs. The committee must provide an annual report to the Legislature, which may include recommendations.

The first priority of the committee is to explore how state agencies collect and track data. The committee must also consider the feasibility and requirements of developing a shared database, including how DOH could use existing tools to better display multiagency data regarding pesticides. The committee may also evaluate and recommend policy options related to:

- improving agricultural pesticide application safety;
- establishing baseline data;
- communication, information, and education provided to and among different members of the agricultural community, including in English and Spanish and with translation apps;
- compiling industry's best practices to limit pesticide exposure;
- reporting of pesticide exposure and related issues;
- incentives for using new technology; and
- evaluating and exploring exposure prevention techniques and protocols and best practices for use of personal safety equipment and reflective gear.

An advisory work group is created to collect information and make recommendations to the full committee on topics requiring unique expertise and perspectives on issues within the jurisdiction of the committee. The secretary of DOH, in consultation with the director of WSDA and the full committee, will appoint the following members to the advisory work group:

- a representative from WSDA;
- two representatives of employee organizations that represent farmworkers;
- two farmworkers with expertise on pesticide application;
- a representative of community and migrant health centers;
- a toxicologist;
- a representative of growers who use air blast sprayers;
- a representative of growers who use aerial pesticide application;
- a representative of growers who use fumigation to apply pesticides; and
- a representative of aerial applicators.

The advisory work group may only hold meetings at the request of the committee. The advisory work group must provide annual reports on their activities and recommendations to the full committee.

The committee must operate within the appropriations from the medical aid and accident fund provided for the committee.

These provisions expire in 2025.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):

- Adds the Director of the University of Washington Pacific Northwest Agricultural Safety and Health center, or an assistant to the committee and removes the Director of the Washington Poison Center from the committee.
- Adds a representative of the Department of Agriculture to the Advisory Group.
- Specifies that when the co-chairs of the committee are determining the time and place for meetings, they must consider costs and must meet in Olympia if that would reduce costs to the state.
- Specifies that, to reduce costs, the advisory group must hold meetings using teleconferencing or other methods, but may have one in-person meeting per fiscal year.
- Removes the requirement that the advisory group attend all committee meetings and hold additional meetings as necessary. Instead specifies that the advisory group may only hold meetings upon the committee's request.
- The committee must operate within the appropriations from the medical aid and accident fund provided for the committee.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Draft Bill (Labor & Commerce): PRO: There were four meetings in four different locations across the state. There were great discussions and presentations from experts, including from Kern County, California. There were a lot of members and other people involved. The concepts were complex and the content of the meetings was very good.

The bill is a step in the right direction. It will establish a new pesticide applications committee along with an advisory work group. The first priority of the committee is to explore how state agencies can better coordinate, collect, and track exposure data. When we focus on and share agency data, that will help focus the work of the committee and get us pointed in the right direction.

The committee will also research ways to improve communications with different members of the community, including educating the public in English and Spanish about health information about pesticides. There was major exposure in 2015 near an elementary school. That is egregious and the highest fine is \$7,500. There is more to do around notification and best practices, recognizing that there are leaders in the community and industry that are already doing an amazing job with notification and applications.

Additional funding for the Department of Agriculture is important. No one should be turned away who wants to learn.

It is important to have legislators involved and those that understand the various statutes.

OTHER: The funding for the bill is not in the Governor's current proposed budget. However, the agencies are prepared to administer the bill as written.

Pesticides are the only chemical that are known or probable carcinogen that we knowingly apply to our food, to the areas where our children play, and where they learn. This bill is based on an inadequate report and does not meet the goals of the work group and the original bill. The panel should have the authority to enforce and implement a pesticide use reporting system. Funding should not go to more training, but should support a pesticide use reporting system based on our access to data that is already required under the worker protections standards. Data cannot be harassed, be fired from work, intimidated and it can lead to reports, that for instance from California, show that the closer you live to agricultural areas, you are 60 percent more likely they have developmental delays and to be on the Asperger's and autism scale. Notification would give time to respond by moving out of the area or not have recess that day to prevent exposure.

Drift happens according to every study from every department. Our current training does not look at drift. Pesticide exposure can be absolutely devastating with poisoning often taking long term physical and psychological toll on the workers and their families. Exposure is also vastly under reported because a power imbalance in agricultural workplaces, language and cultural barriers, among other things. This has been recognized over and over again by the former PIRT panel and also by the Department of Health.

There are concerns with the bill with respect to the scope of the work group and the membership. The scope is too broad to make meaningful progress on any particular issue. The focus should be first on pesticide use reporting, protecting children from drift, and reducing drift prone application methods.

There was a failure to include on the committee anyone from the University of Washington, which has several departments that have relevant expertise in this area. The advisory work group will be ineffective and will be a poor use of resources with the splits in representation between workers and industry.

Persons Testifying (Labor & Commerce): PRO: Senator Rebecca Saldaña, Prime Sponsor; Megan Dunn, Northwest Center for Alternatives to Pesticides; Heather Hansen, Washington Friends of Farms and Forests; Jim Jesernig, Washington Potato and Onion Association; Mike Schwisow, Washington Winegrowers Association.

OTHER: Andrea Schmitt, Columbia Legal Services; Lauren Jenks, Washington State Department of Health; Kelly McLain, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.

Staff Summary of Public Testimony on Original Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We recognize a lot of technology improvements, and we are committed to making sure there's no drift. Part of that is making sure we are using best practices in management and in limiting and being more precise in how we are doing the application. There is also a big need for training programs to reach more people. We also do not have a baseline around our data. That is why

we are bringing the panel together to understand what the numbers look like and what the impact is when exposure happens. We have asked the WSDA and DOH to be realistic about costs. We feel okay with the number because it will help us to prevent further exposures in the future.

Setting up the work group is half of the work that is needed to deal with pests. The other half is \$500,000 in the Governor's budget for the Department of Agriculture to increase pesticide applicator training. This committee should take a look at the underlying assumptions in the fiscal note. Twenty-four meetings in two years at \$650,000 is \$27,000 per meeting. The money should be spent more wisely.

Persons Testifying (Ways & Means): PRO: Senator Rebecca Saldaña, Prime Sponsor; Jim Jesernig, Washington Potato and Onion Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.