

CHAPTER 177.

[House Bill No. 297.]

PESTICIDES.

AN ACT relating to pesticides; amending sections 1, 2, 7, 8, 9, 11, 12, 15, 16, 18, 20, 22, 23, 29, and 34, chapter 249, Laws of 1961 and RCW 17.21.010, 17.21.020, 17.21.070, 17.21.080, 17.21.090, 17.21.110, 17.21.120, 17.21.150, 17.21.160, 17.21.180, 17.21.200, 17.21.220, 17.21.230, 17.21.290, and 17.21.310; amending section 17, chapter 249, Laws of 1961 as amended by section 1, chapter 107, Laws of 1963 and RCW 17.21.170; adding new sections to chapter 249, Laws of 1961 and to chapter 17.21 RCW; and prescribing penalties.

*Be it enacted by the Legislature of the State of Washington:*

RCW 17.21.010 amended.

Section 1. Section 1, chapter 249, Laws of 1961 and RCW 17.21.010 are each amended to read as follows:

Pesticide application act. Purpose.

The application and the control of the use of various pesticides is important and vital to the maintenance of a high level of public health and welfare both immediate and future, and is hereby declared to be affected with the public interest. The provisions of this chapter are enacted in the exercise of the police power of the state for the purpose of protecting the immediate and future health and welfare of the people of the state.

RCW 17.21.020 amended.

Sec. 2. Section 2, chapter 249, Laws of 1961 and RCW 17.21.020 are each amended to read as follows:

Pesticide application act—Definitions.

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer,

agent or employee thereof. This term shall import either the singular or plural as the case may be.

(4) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(5) "Pesticide" means, but is not limited to, (a) any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed and any other form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest or which the director may declare to be a pest, and (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant, and (c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used.

(6) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests or to destroy, control, repel or mitigate fungi, nematodes or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately therefrom.

(7) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any fungi.

(8) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy,

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plication act—  
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repel or mitigate rodents or any other vertebrate animal which the director may declare to be a pest.

(9) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate any weed.

(10) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(11) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(12) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.

(13) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(14) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(15) "Weed" means any plant which grows where not wanted.

(16) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insects, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more

than six legs, as, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(17) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals.

(18) "Snails or slugs" include all harmful mollusks.

(19) "Nematode" means any of the nonsegmented roundworms harmful to plants.

(20) "Apparatus" means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(21) "Restricted use pesticide" means any pesticide, including any highly toxic pesticide, which the director has found and determined, subsequent to a hearing, to be injurious to persons, pollinating insects, bees, animals, crops or lands other than the pests it is intended to prevent, destroy, control, or mitigate.

(22) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(23) "Forest land" means land bearing a merchantable stand of timber as defined in RCW 76.08.010 or land being held for the production of forest products.

Pesticide application act—  
Definitions.

(24) "Agricultural crop" means a food intended for human consumption, or a food for livestock the products of which are intended for human consumption, which food shall require cultural treatment of the land for its production.

(25) "Board" means the pesticide advisory board.

(26) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

RCW 17.21.070 amended.

Sec. 3. Section 7, chapter 249, Laws of 1961 and RCW 17.21.070 are each amended to read as follows:

Pesticide applicator's license—  
Required—  
Application date—Fee.

It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a pesticide applicator's license. Application for such a license shall be made on or before January 1st of each year. Such application shall be accompanied by a fee of fifty dollars and in addition thereto a fee of ten dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: *Provided*, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide.

RCW 17.21.080 amended.

Sec. 4. Section 8, chapter 249, Laws of 1961 and RCW 17.21.080 are each amended to read as follows:

Application for license.

Application for a pesticide applicator's license provided for in RCW 17.21.070 shall be on a form prescribed by the director and shall include the following:

(1) The full name of the person applying for such license.

(2) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or any other organized group of persons whether incorporated or not, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation or group.

(3) The principal business address of the applicant in the state and elsewhere.

(4) The name of a person whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant.

(5) The model, make, horsepower, and size of any apparatus used by the applicant to apply pesticides.

(6) License classification or classifications the applicant is applying for.

(7) Any other necessary information prescribed by the director.

Sec. 5. Section 9, chapter 249, Laws of 1961 and RCW 17.21.090 are each amended to read as follows:

The director shall not issue a pesticide applicator's license until the applicant, if he is the sole owner of the business, or if there is more than one owner, the person managing the business, has passed an examination to demonstrate to the director (1) his knowledge of how to apply pesticides under the classifications he has applied for, manually or with the various apparatuses that he may have applied for a license to operate under the provisions of this chapter, and (2) his knowledge of the nature and effect of pesticides he may apply manually or with such apparatuses. The director shall charge an examination fee of five dollars when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly sched-

RCW 17.21.090  
amended.

Pesticide  
applicator's  
license—  
Examination.

Pesticide Ap-  
plication Act.

uled examination date as provided for by the direc-  
tor.

RCW 17.21.110  
amended.

Sec. 6. Section 11, chapter 249, Laws of 1961 and  
RCW 17.21.110 are each amended to read as follows:

Operator's  
license—Re-  
quired—Fee—  
Examination.

It shall be unlawful for any person to act as an  
employee of a pesticide applicator and apply pesti-  
cides manually or as the operator directly in charge  
of any apparatus which is licensed or should be  
licensed under the provisions of this chapter for the  
application of any pesticide, without having ob-  
tained an operator's license from the director. Such  
an operator's license shall be in addition to any  
other license or permit required by law for the op-  
eration or use of any such apparatus. Any person  
applying for such an operator's license shall file an  
application on a form prescribed by the director on  
or before January 1st of each year. Such application  
shall state the classifications the applicant is ap-  
plying for and whether the applicant intends to  
apply pesticides manually or to operate either a  
ground or aerial apparatus, or both, for the applica-  
tion of pesticides. Application for a license to apply  
pesticides manually and/or to operate ground appa-  
ratuses shall be accompanied by a license fee of ten  
dollars. Application for a license to operate an aerial  
apparatus shall be accompanied by a license fee of  
ten dollars. The provisions of this section shall not  
apply to any individual who has passed the exami-  
nation provided for in RCW 17.21.090, and is a li-  
censed pesticide applicator.

RCW 17.21.120  
amended.

Sec. 7. Section 12, chapter 249, Laws of 1961 and  
RCW 17.21.120 are each amended to read as follows:

Examination  
for operator's  
license—Fee.

The director shall not issue an operator's license  
before such applicant has passed an examination to  
demonstrate to the director (1) his ability to apply  
pesticides in the classifications he has applied for,  
manually or with the various apparatuses that he

may have applied for a license to operate, and (2) his knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications. The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides manually or with apparatuses the applicant has been licensed to operate. The director shall charge an examination fee of five dollars when an examination is necessary before a license may be issued and when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 8. Section 15, chapter 249, Laws of 1961 and RCW 17.21.150 are each amended to read as follows:

RCW 17.21.150 amended.

The director may deny, suspend, or revoke a license provided for in this chapter if he determines that an applicant or licensee has committed any of the following acts, each of which is declared to be a violation of this chapter:

Pesticide applicator operator's license—  
Grounds for denial, suspension, revocation of license.

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Applied worthless or improper materials;

(3) Operated a faulty or unsafe apparatus;

(4) Operated in a faulty, careless, or negligent manner;

(5) Refused or neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the director;

(6) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(7) Made false or fraudulent records, invoices, or reports;



Pesticide applicator's license—  
Grounds for denial, suspension, revocation of license.

(8) Operated an apparatus for the application of a pesticide without a licensed operator;

(9) Operated an unlicensed apparatus;

(10) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(11) Is not qualified to perform the type of pest control under the conditions and in the locality in which he operates or has operated, regardless of whether or not he has previously passed an examination provided for in RCW 17.21.090 and 17.21.120;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(13) Made false, misleading or erroneous statements during or after an inspection concerning any infestation or infection of pests found on land; or

(14) Impersonated any state, county or city inspector or official.

RCW 17.21.160 amended.

Sec. 9. Section 16, chapter 249, Laws of 1961 and RCW 17.21.160 are each amended to read as follows:

Surety bond or insurance required.

The director shall not issue a pesticide applicator's license until the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond; or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant: *Provided*, That such surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants or land being worked upon by the applicant. The director shall not accept a surety bond or liability insurance policy except from authorized insurers in this state or if placed as a surplus line as provided for in chapter 48.15 RCW, as enacted or hereafter amended.

Sec. 10. Section 17, chapter 249, Laws of 1961 as amended by section 1, chapter 107, Laws of 1963 and RCW 17.21.170 are each amended to read as follows:

RCW 17.21.170  
amended.

The amount of the surety bond or liability insurance as provided for in RCW 17.21.160 shall be not less than twenty-five thousand dollars for property damage and public liability insurance, each separately, and including loss or damage arising out of the actual use of any pesticide. Such surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period. The director shall be notified ten days prior to any reduction at the request of the applicant or cancellation of such surety bond or liability insurance by the surety or insurer: *Provided*, That the total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy: *Provided, further*, That the director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding five hundred dollars for aerial applicators and two hundred and fifty dollars for all other applicators for the total amount of liability insurance or surety bond required herein: *And provided further*, That if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim such deductible clause shall not be accepted by the director unless such applicant furnishes the director with a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

Amount of  
bond or  
insurance  
required—  
Notice of  
reduction or  
cancellation.

Sec. 11. Section 18, chapter 249, Laws of 1961 and RCW 17.21.180 are each amended to read as follows:

RCW 17.21.180  
amended.

The applicator's license shall, whenever the licensee's surety bond or insurance policy is reduced below the requirements of RCW 17.21.170, be automatically suspended until such licensee's surety

Bond or  
insurance  
changes—  
Effect on  
license.

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Applicator's  
Act.

bond or insurance policy again meets the requirements of RCW 17.21.170: *Provided*, That the director may pick up such licensee's license plates during such period of automatic suspension and return them only at such time as the said licensee has furnished the director with written proof that he is in compliance with the provisions of RCW 17.21.120.

RCW 17.21.200  
amended.

Sec. 12. Section 20, chapter 249, Laws of 1961 and RCW 17.21.200 are each amended to read as follows:

Farmer  
exemption.

The provisions of this chapter relating to licenses and requirements for their issuance shall not apply to any farmer owner of ground apparatus applying pesticides for himself or other farmers on an occasional basis not amounting to a principal or regular occupation: *Provided*, That such owner shall not publicly hold himself out as a pesticide applicator.

RCW 17.21.220  
amended.

Sec. 13. Section 22, chapter 249, Laws of 1961 and RCW 17.21.220 are each amended to read as follows:

Application of  
chapter to  
governmental  
entities.

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of restricted use pesticides by any person on their own crops or land: *Provided*, That the operators in charge of any apparatuses used by any state agencies, municipal corporations and public utilities or any governmental agencies shall be subject to the provisions of RCW 17.21.110 and 17.21.120 and the director shall issue a limited license without a fee to such operators which shall be valid only when such operators are acting as operators on apparatuses used by such entities: *Provided further*, That the jurisdictional health officer or his duly authorized representative is exempt from this licensing provision when applying pesticides to control pests other than weeds.

(2) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

Sec. 14. Section 23, chapter 249, Laws of 1961 and RCW 17.21.230 are each amended to read as follows:

RCW 17.21.230  
amended.

There is hereby created a pesticide advisory board consisting of three licensed pesticide applicators residing in the state, one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one licensed for structural pest control, one entomologist in public service, one environmental health specialist from the Washington state department of health, one toxicologist in public service, one plant pathologist in public service, one member from the agricultural chemical industry, one member from the food processing industry, the supervisor of the grain and chemical division of the department and two producers of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides. Such members shall be appointed by the governor for terms of four years and may be appointed for successive four year terms at the discretion of the governor. The governor may remove any member of the board prior to the expiration of his term of appointment for cause: *Provided*, That at the inception of this chapter the governor shall appoint three members which shall not include two members from any one representative group; for a period of two years, three members for a period of three years which shall not include two members from any one representative group; and four members for a period of four years which shall not include two members from any one representative

Agricultural  
pesticide  
advisory board  
—Composition  
—Terms.

Pesticide applicator's license.

group. All subsequent terms for appointments to such board shall be for a period of four years.

RCW 17.21.290 amended.

Sec. 15. Section 29, chapter 249, Laws of 1961 and RCW 17.21.290 are each amended to read as follows:

License plates for apparatuses.

All licensed apparatuses shall be identified by a license plate furnished by the director, at no cost to the licensee, which plate shall be affixed in a location and manner upon such apparatus as prescribed by the director. The licensee shall also place on two sides of each licensed apparatus so as to be readily visible to the public, letters not less than one inch high stating the classification or classifications for which such licensee is licensed.

RCW 17.21.310 amended.

Sec. 16. Section 34, chapter 249, Laws of 1961 and RCW 17.21.310 are each amended to read as follows:

General penalty.

Any person who shall violate any provisions or requirements of this chapter or rules adopted hereunder shall be deemed guilty of a misdemeanor and guilty of a gross misdemeanor for any second and subsequent offense: *Provided*, That any offense committed more than five years after a previous conviction shall be considered a first offense.

New section.

Sec. 17. There is added to chapter 249, Laws of 1961 and to chapter 17.21 RCW a new section to read as follows:

Classification of licenses.

The director may classify licenses to be issued under the provisions of this chapter, such classifications may include but not be limited to pest control operators, ornamental sprayers, agricultural crop sprayers or right of way sprayers; separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides. Each such classification shall be subject to separate testing procedures and requirements: *Provided*, That no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications

provided for by the director under the authority of this section, except as provided for in RCW 17.21.110.

Sec. 18. There is added to chapter 249, Laws of 1961 and to chapter 17.21 RCW a new section to read as follows: New section.

The provisions of chapter 17.21 RCW [chapter 249, Laws of 1961 as herein amended] shall not apply to any person using hand-powered equipment, devices, or contrivances to apply pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve feet high, as an incidental part of his business of taking care of household lawns and yards for remuneration: *Provided*, That such person shall not publicly hold himself out as being in the business of applying pesticides. Landscape gardener exemption.

Sec. 19. There is added to chapter 249, Laws of 1961 and to chapter 17.21 RCW a new section to read as follows: New section.

The provisions of this chapter requiring all pest control operators, exterminators and fumigators to license with the department shall not preclude a city of the first class with a population of one hundred thousand people or more, or the county in which it is situated, from also licensing structural pest control operators, exterminators and fumigators operating within the territorial confines of said city or county: *Provided*, That when structural pest control operators, exterminators and fumigators are licensed by both such city of the first class and the county in which such city is situated, and there exists a joint county-city health department, then such joint county-city health department may enforce the provisions of such city and county as to the license requirements for said structural pest control operators, exterminators and fumigators. Licensing by cities of first class and counties not precluded.

Severability.

Sec. 20. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected.

Passed the House January 30, 1967.

Passed the Senate March 6, 1967.

Approved by the Governor March 21, 1967.

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CHAPTER 178.

[Engrossed House Bill No. 633.]

SEWER DISTRICTS—LEASES.

AN ACT relating to sewer districts; authorizing the lease of real property owned or held by sewer districts; and adding new sections to chapter 210, Laws of 1941 and to chapter 56.08 RCW.

*Be it enacted by the Legislature of the State of Washington:*

Sewer districts  
—Leases—  
Authority.

Section 1. Within the limitations prescribed by sections 2 through 5 of this 1967 amendatory act, a sewer district may lease out any real property held by it which is not necessary for its immediate use and purposes, and upon such terms and conditions as the board of sewer district commissioners deems proper, when and only after:

(1) In the case of real property, the board has by resolution declared the property, to be property for which there is a future need by the district and for which provision is made in the comprehensive plan of the sewer system of the district as it exists or may from time to time be revised, altered or amended.

Notice—  
Publication.

Sec. 2. No lease shall be made until the sewer district has first caused notice thereof, with full description by name of the proposed lessees, the pur-