

- (38) Section 38, chapter 244, Laws of 1961 and RCW 15.57.900;
- (39) Section 39, chapter 244, Laws of 1961 and RCW 15.57.910;
- (40) Section 40, chapter 244, Laws of 1961 and RCW 15.57.920

and

- (41) Section 41, chapter 244, Laws of 1961 and RCW 15.57.930.

NEW SECTION. Sec. 48. New sections 1 through 47 of this act are added to Title 15 RCW.

Passed the House May 10, 1971.

Passed the Senate May 10, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

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CHAPTER 191  
[Engrossed House Bill No. 636]  
REGULATION OF PESTICIDES

AN ACT Relating to pesticides; amending section 2, chapter 249, Laws of 1961 as amended by section 2, chapter 177, Laws of 1967 and RCW 17.21.020; amending section 9, chapter 249, Laws of 1961 as amended by section 5, chapter 177, Laws of 1967 and RCW 17.21.090; amending section 10, chapter 249, Laws of 1961 and RCW 17.21.100; amending section 15, chapter 249, Laws of 1961 as amended by section 8, chapter 177, Laws of 1967 and RCW 17.21.150; amending section 20, chapter 249, Laws of 1961 as amended by section 12, chapter 177, Laws of 1967 and RCW 17.21.200; amending section 18, chapter 177, Laws of 1967 and RCW 17.21.205; amending section 22, chapter 249, Laws of 1961 as amended by section 13, chapter 177, Laws of 1967 and RCW 17.21.220; amending section 23, chapter 249, Laws of 1961 as amended by section 14, chapter 177, Laws of 1967 and RCW 17.21.230; adding new sections to chapter 249, Laws of 1961 and chapter 17.21 RCW; and repealing section 21, chapter 249, Laws of 1961 and RCW 17.21.210.

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

Section 1. Section 2, chapter 249, Laws of 1961 as amended by section 2, chapter 177, Laws of 1967 and RCW 17.21.020 are each amended to read as follows:

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, 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)) insecta, comprising sixlegged, 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 hand-sized 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 76.08.040 or land being held for the production of forest products.

(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))~~ (24) "Board" means the pesticide advisory board.

~~((26))~~ (25) "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.

Sec. 2. Section 9, chapter 249, Laws of 1961 as amended by section 5, chapter 177, Laws of 1967 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 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 or when application for such license and examination is made at other than a regularly scheduled examination date as provided for by the director.

Sec. 3. Section 10, chapter 249, Laws of 1961 and RCW 17.21.100 are each amended to read as follows:

Pesticide applicators licensed under the provisions of this chapter shall keep records on a form prescribed by the director which shall include the following:

- (1) The name of the person for whom the pesticide was applied.
- (2) The location of the land where the pesticide was applied.
- (3) The year, month, day and time the pesticide was applied.
- (4) The person or firm who supplied the pesticide which was applied.
- (5) The trade name and/or the common name of the pesticide which was applied.
- (6) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.
- (7) Any other reasonable information required by the director.
- (8) Such records shall be kept for a period of three years from the date of the application of the pesticide to which such

records refer, and the director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee: PROVIDED, That the director may require the submission of such records within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of such restricted use pesticide.

Sec. 4. Section 15, chapter 249, Laws of 1961 as amended by section 8, chapter 177, Laws of 1967 and RCW 17.21.150 are each amended to read as follows:

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:

(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;

(8) (~~Operated an apparatus for the application of a pesticide without a licensed operator~~) Engaged in the business of applying a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(9) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular 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 or reports 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.

Sec. 5. Section 20, chapter 249, Laws of 1961 as amended by section 12, chapter 177, Laws of 1967 and RCW 17.21.200 are each amended to read as follows:

The provisions of this chapter relating to licenses and requirements for their issuance shall not apply to any forest landowner, or his employees, applying pesticides with ground apparatus or manually, on his own lands or any lands or rights of way under his control or 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.

Sec. 6. Section 18, chapter 177, Laws of 1967 and RCW 17.21.205 are each amended to read as follows:

The licensing provisions of chapter 17.21 RCW 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.

Sec. 7. Section 22, chapter 249, Laws of 1961 as amended by section 13, chapter 177, Laws of 1967 and RCW 17.21.220 are each amended to read as follows:

(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 ~~17.21.100~~, 17.21.110 and 17.21.120 and the director shall issue a limited public operator 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. 8. Section 23, chapter 249, Laws of 1961 as amended by section 14, chapter 177, Laws of 1967 and RCW 17.21.230 are each amended to read as follows:

There is hereby created a pesticide advisory board consisting

of three licensed pesticide applicators residing in the state ((r)) (one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one shall be 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 group. All subsequent terms for appointments to such board shall be for a period of four years)). The board shall also include the environmental health specialist from the division of health of the department of social and health services, the supervisor of the grain and chemical division of the department, and the directors, or their appointed representatives, of the departments of game, fisheries, natural resources, and ecology.

NEW SECTION. Sec. 9. There is added to chapter 249, Laws of 1961 and to chapter 17.21 RCW a new section to read as follows:

The licensing provisions of this chapter shall not apply to research personnel of federal, state, county, or municipal agencies when performing pesticide research in their official capacities; and to other persons when applying pesticides to small experimental plots for research projects conducted in cooperation with governmental research agencies.

NEW SECTION. Sec. 10. There is added to chapter 249, Laws of 1961 and to chapter 17.21 RCW a new section to read as follows:

(1) For the purpose of carrying out the provisions of this chapter the director may enter upon any public or private premises at reasonable times, in order:

(a) To have access for the purpose of inspecting any equipment subject to this chapter and such premises on which such equipment is kept or stored;

(b) To inspect lands actually or reported to be exposed to

pesticides;

(c) To inspect storage or disposal areas;

(d) To inspect or investigate complaints of injury to humans or land; or

(e) To sample pesticides being applied or to be applied.

(2) Should the director be denied access to any land where such access was sought for the purposes set forth in this chapter, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(4) The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any rule made pursuant to this chapter in the superior court of the county in which such violation occurs or is about to occur.

NEW SECTION. Sec. 11. Section 21, chapter 249, Laws of 1961 and RCW 17.21.210 are each hereby repealed.

Passed the House March 12, 1971.

Passed the Senate May 10, 1971.

Approved by the Governor May 20, 1971.

Filed in Office of Secretary of State May 21, 1971.

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## CHAPTER 192

[House Bill No. 705]

### REGULATION OF PUBLIC LIVESTOCK MARKETS

AN ACT Relating to public livestock markets; amending section 3, chapter 107, Laws of 1959 as last amended by section 5, chapter 120, Laws of 1967 ex. sess. and RCW 16.65.030; amending section 8, chapter 107, Laws of 1959 as amended by section 3, chapter 182, Laws of 1961 and RCW 16.65.080; amending section 9, chapter 107, Laws of 1959 and RCW 16.65.090; amending section 14, chapter 107, Laws of 1959 and RCW 16.65.140; amending section 4, chapter 182, Laws of 1961 and RCW 16.65.200; amending section 21, chapter 107, Laws of 1959 and RCW 16.65.210; amending section 22, chapter 107, Laws of 1959 and RCW 16.65.220; and repealing section 7, chapter 107, Laws of 1959 and RCW 16.65.070.

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