

CHAPTER 244.

[Sub. H. B. 140.]

AGRICULTURAL PESTICIDES.

AN ACT relating to agricultural pesticides; providing penalties; adding a new chapter to chapter 11, Laws of 1961 (House Bill No. 1) and to Title 15 RCW; and repealing section 15.56.010 through 15.56.190, chapter 11, Laws of 1961 (House Bill No. 1) and chapter 15.56 RCW.

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

Legislative declaration.

SECTION 1. The formulation, distribution and sale of any agricultural pesticide and the dissemination of accurate scientific information as to the proper use, or nonuse, of any agricultural pesticide, 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 a business affected with the public interest. The provisions of this act are enacted in the exercise of the police powers of the state for the purpose of protecting the immediate and future health and welfare of the people of the state.

Definitions.

SEC. 2. For the purposes of this act:

"Department".

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

"Director".

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

"Person".

(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.

"Agricultural pest".

(4) "Agricultural 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) "Agricultural pesticide" hereafter referred to as 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. "Agricultural pesticide".

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

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

(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. "Rodenticide".

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

(10) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, re- "Insecticide".

pel, or mitigate any insects which may be present in any environment whatsoever.

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

"Plant regulator". (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.

"Defoliant". (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.

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

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

"Insect". (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 insecta, 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.

"Fungi". (17) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all-chlorophyll-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 agricultural mollusks. "Snails or slugs".

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

(20) "Ingredient statement" means either: "Ingredient statement".

(a) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide; or

(b) A statement of the name of each active ingredient, together with the name of each, and total percentage of, inert ingredients, if any there be, in the pesticide (except option (a) shall apply if the preparation is highly toxic to man, determined as provided in section 6 of this act); and, in addition to (a) and (b) in case the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(21) "Active ingredient" means: "Active ingredient".

(a) In the case of a pesticide other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, control, or mitigate agricultural pests, or other pests;

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(22) "Inert ingredient" means an ingredient which is not an active ingredient. "Inert ingredient".

(23) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment. "Antidote".

"Registrant". (24) "Registrant" means the person registering any agricultural pesticide pursuant to the provisions of this act.

"Label". (25) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide or device.

"Labeling". (26) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon the pesticide or device or any of its containers or wrappers;

(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public;

(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the department, United States departments of agriculture and interior, the United States public health service, state experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

"Highly toxic". (27) "Highly toxic" means highly toxic as defined in Title 7, Code of Federal Regulations 362.8 and as interpreted in Agricultural Research Service, Service and Regulatory Announcements No. 167 as issued and amended on the effective date of this act: *Provided*, That the director may adopt, subsequent to a hearing, any amendment to such definition and interpretation prescribed by the secretary of the United States department of agriculture.

"Commercial quantity". (28) "Commercial quantity" means pesticides placed in containers or packaged in amounts over five pounds dry weight or one gallon liquid measure.

"Restricted use pesticide". (29) "Restricted use pesticide" means any pesticide which the director has found and determined

subsequent to hearing under the provisions of the pesticide applicators act as enacted or hereafter amended, to be injurious to persons, pollinating insects, bees, animals, crops or lands other than the agricultural pests it is intended to prevent, destroy, control or mitigate.

(30) "Engage in the business" means any sale, or to hold for sale, or offer for sale, at any time, any pesticide in commercial quantities or any highly toxic pesticide in any amount.

"Engage in the business".

SEC. 3. The term "adulterated" shall apply to any pesticide if its strength or purity deviates from the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

"Adulterated" to apply, when.

SEC. 4. The term "misbranded" shall apply:

"Misbranded" to apply, when.

(1) To any pesticide or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) To any pesticide:

(a) If it is an imitation of or is offered for sale under the name of another pesticide;

(b) If its labeling bears any reference to registration under the provisions of this act;

(c) If the labeling accompanying it does not contain directions for use which are necessary and which if complied with would be adequate for the protection of the public;

(d) If the label does not contain a warning or caution statement which may be necessary and which if complied with would be adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) If the label does not bear an ingredient statement on that part of the immediate container and

on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: *Provided*, That the director may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase:

(f) If any word, statement or other information required by or under authority of the provisions of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling), and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase or;

(g) If in the case of an insecticide, nematocide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such pesticide; or

(h) If in the case of a plant regulator, defoliant, or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticide: *Provided*, That physical or physiological effects on plants or parts thereof shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(3) To a spray adjuvant when the label fails to state the type or function, and the names of the principal functioning agents. If more than three

such agents are present, only the three principal ones need be named. A pesticide sold only as a spray adjuvant shall not be construed to be misbranded if the total percentage of the constituents ineffective as a spray adjuvant is stated on the label without the mention of the terms "active ingredient" or "inert ingredient" in lieu of one of the options required by section 2, subsection 14 of this act.

SEC. 5. All rules adopted under the provisions of this act shall be subject to the provisions of chapter 34.04 RCW as enacted or hereafter amended, concerning the adoption of rules.

Chapter 30.04
RCW applica-
ble to adoption
of rules.

SEC. 6. The director shall administer and enforce the provisions of this act and rules adopted hereunder subject to hearings as provided in chapter 34.04 RCW as enacted or hereafter amended.

Rules, scope—
Enforcement.

(1) The director shall adopt rules pursuant to section 5 of this act:

(a) Governing the sale or prohibiting the sale of any pesticide which subsequent to a hearing he finds to be an injurious pesticide.

(2) The director may adopt rules, pursuant to section 6 of this act, which shall include but not be limited to the following rules:

(a) Declaring as an agricultural pest any form of plant or animal life or virus which is injurious to any plant, man, domestic animal, article or substance.

(b) Determining that certain pesticides are highly toxic to man even though such pesticides are not within the scope of the definition of highly toxic, as defined in section 2, subsection 27 of this act.

(c) Establishing standards of coloring or discoloring for any pesticide including pesticides subject to the requirements of section 20, subsection 4 of this act.

(d) Concerning safety in the distribution and sale of all pesticides and devices required to be registered under the provisions of this act.

(3) For the purpose of this section the director may adopt rules in conformity with the primary standards established by the United States department of agriculture or any other federal agency, with respect to pesticides.

(4) The director shall publish a list of all pesticides within the scope of the definition of highly toxic, as defined in section 2, subsection 27 of this act and as prescribed by rule under subsection 2(b) of this section, by their generic name, or trade or brand name of the registered formulation in which they are included. Such list shall be kept current and shall, upon request, be made available to any interested party.

Right to deny, suspend or revoke license, grounds.

SEC. 7. The director is authorized to deny, suspend, or revoke any license, registration or permit provided for in this act subject to a hearing, in any case in which he finds there has been a failure or refusal to comply with the provisions of this act or rules adopted hereunder. All hearings for the suspension, denial or revocation of such license, registration or permit shall be subject to the provisions of chapter 34.04 RCW as enacted or hereafter amended, concerning contested cases.

Hearings subject to chapter 34.04 RCW.

Subpoenas.

SEC. 8. The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents and records in the county in which the person licensed under this act resides in any hearing affecting the authority or privilege granted by a license, registration or permit issued under the provisions of this act. Witnesses shall be entitled to fees for attendance and travel, as provided for in chapter 2.40 RCW, as enacted or hereafter amended.

Witness fees.

License to sell pesticides.

SEC. 9. It shall be unlawful for any person to engage in the business of selling, offering for sale, or holding for sale any pesticide in commercial quantities or highly toxic pesticides in any amount with-

out first having obtained an annual license from the director which shall expire on the final day of February. A license shall be required for each location or outlet from which such pesticides are sold or held for sale or offered for sale. Application for a license shall be accompanied by a ten dollar annual license fee and shall be on a form prescribed by the director and shall include the full name of the person applying for such license. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership or the names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director: *Provided*, That the provisions of this section shall not apply to a pesticide applicator who sells agricultural pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide applicator: *Provided further*, That fertilizers which are sold as and are primarily plant nutrients containing pesticides only in part shall not be subject to the licensing provisions of this section, when sold only for home use in packages of fifty pounds or less.

Application
—Fee.

Exemptions.

SEC. 10. If an application for renewal of a pesticide license is not filed on or prior to March 1st of any one year subsequent to March 1, 1961, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: *Provided*, That such penalty shall not apply if the applicant furnishes an affidavit that he has not sold or held for

Penalty for
late license
renewal.

sale or offered for sale any pesticide subject to section 9 of this act subsequent to the expiration of his prior license.

License fee prorated.

SEC. 11. The director shall prorate the license fee required under the provisions of this act from the effective date of this act to the final day of February 1962. Such license fee shall not be prorated for any subsequent license period.

Registration of pesticides—Renewal.

SEC. 12. Every pesticide which is distributed, sold, offered for sale, or held for sale within this state or delivered for transportation or transported in intra-state commerce or between points within this state through any point outside this state shall be registered with the director subject to the provisions of this act. Such registration shall be renewed annually prior to January 1st: *Provided*, That registration is not required in the case of a pesticide shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this act.

Exemptions.

Registration statement, contents.

SEC. 13. The registrant shall file a statement with the department, on a form prescribed by the director, which shall include the following:

- (1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant's.
- (2) The name of the pesticide.
- (3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions and precautions for use.
- (4) If requested by the director a full description of the tests made and the results thereof upon which the claims are based.
- (5) Any other necessary information prescribed by the director.

SEC. 14. Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee of ten dollars for the first pesticide so registered and ten dollars for each additional pesticide registered by the department for such person. All such registrations shall expire on December 31st of any one year.

Registration
fee—
Expiration.

SEC. 15. If the renewal of a pesticide registration is not filed prior to January 1st of any one year a penalty of five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the registration renewal shall be issued: *Provided*, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he did not sell, offer for sale or handle such unregistered pesticide during the period of nonregistration. The payment of such fee or penalty is not a bar to any prosecution for doing business without proper registry.

Penalty for
late registra-
tion.

SEC. 16. All federal, state and county offices shall register without fee all pesticides sold at cost by them and they shall not be subject to the license provisions of section 9 of this act.

Public offices
register with-
out fee.

SEC. 17. The director, when he deems it necessary in the administration of this act, may require the submission of the complete formula of any pesticide. If it appears to the director that the composition of the pesticide is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of section 20 of this act he shall register the pesticide.

Standard for
registration.

SEC. 18. If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this act he shall notify

Registration,
notice of
failure to
comply.

Registration
under protest.

Hearing on
registration
determination.

Registration
under protest,
initiation of
by director—
Procedure.

Unlawful acts
relating to
pesticides.

the registrant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this act so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the pesticide be registered, the director shall register the pesticide under protest. Such registration under protest shall be accompanied by a warning in writing to the registrant of the apparent failure of the pesticide to comply with the provisions of this act. If such pesticide is not brought into compliance within thirty days from the date of issuance of the registration under protest, the director shall provide for a hearing as set forth in section 7 of this act to determine if the registration of such pesticide should be allowed without protest or whether such registration should be suspended or revoked.

SEC. 19. The director may on his own motion, in order to protect the public subsequent to the registration of any pesticide, suspend such registration and in lieu thereof on the same date issue a registration under protest. If such pesticide is not brought into compliance within thirty days from the date of issuance of the registration under protest, the director shall provide for a hearing as set forth in section 7 of this act to determine if the registration of such pesticide should be reinstated as a registration not under protest or whether such registration should be suspended or revoked.

SEC. 20. It is unlawful for any person acting for himself or as an agent, to distribute, sell or offer for sale within the state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(1) Any pesticide which has not been registered pursuant to the provisions of sections 12, 13, 14, 15, 16, 17, 18 and 19 of this act or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: *Provided*, That at the discretion of the director, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(2) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing:

(a) The name and address of the manufacturer, registrant or person for whom manufactured.

(b) The name, brand or trademark under which the pesticide is sold.

(c) The weight or measure of the content subject to the provisions of chapter 19.93 RCW (state weights and measures act) as enacted or hereafter amended.

(3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 2, subsection 27 or section 6 of this act unless the label bears, in addition to any other matter required by this act:

(a) The skull and crossbones;

(b) The word "poison," prominently in red on a background of distinctly contrasting color;

(c) A statement of an antidote for the pesticide.

(4) The pesticides commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite,

sodium fluoride, sodium fluosilicate and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this act, or any other white powder pesticide which the director, after investigation and after public hearing on the necessity for such action for the protection of the public health and upon the feasibility of such coloration or discoloration, requires by rule that it be distinctly colored or discolored, unless it has already been so colored or discolored. The director may exempt any pesticide to the extent that it is intended for a particular use or uses, from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any pesticide which is adulterated or misbranded, or any device which is misbranded.

Further unlawful acts relating to pesticides.

SEC. 21. It shall be unlawful:

(1) To sell or deliver any restricted use pesticide to any person who is required by law or rules promulgated under such law to have a permit to use or purchase such restricted use pesticide unless such person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of such restricted use pesticide sold or delivered: *Provided*, That such permit may be obtained immediately prior to sale or delivery from any person designated by the director.

(2) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this act or rules adopted under this act, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purposes of this act.

(3) For any person to use for his own advantage or to reveal, other than to the director or proper officials or employees of the state or to the courts of

the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 17 of this act.

SEC. 22. Any person issued a license, or permit under the provisions of this act may be required by the director to keep accurate records on a form prescribed by him, containing the following information:

Records by licensees, permittees.

(1) The delivery, movement or holding of any pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee, and any other information, necessary for the enforcement of this act, as prescribed by the director. The director shall have access to such records at any reasonable time to copy or make copies of such records for the purpose of carrying out the provisions of this act.

SEC. 23. The penalties provided for violations of section 20 of this act shall not apply to:

Persons exempted from penalties provided for violations of section 20 of act.

(1) Any carrier while lawfully engaged in transporting a pesticide within the state, if such carrier, upon request, permits the director to copy all records showing the transaction in and movement of the articles.

(2) Public officials of the state and the federal government engaged in the performance of their official duties.

(3) The manufacturer or shippers of pesticides for experimental use only.

(a) By or under the supervision of an agency of the state or of the federal government authorized by law to conduct research in the field of pesticides.

(b) By others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only—Not to be sold," together with the manufacturer's name and address.

If a written permit has been obtained from the director, pesticides may be sold for experimental purposes subject to restrictions and conditions set forth in the permit.

Pesticides for export exempt.

SEC. 24. No pesticides shall be deemed in violation of this act when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this act shall apply.

Sections 26 and 27 of act to apply, when.

SEC. 25. When the director finds from investigation made by him, that any pesticide or device being distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce does not meet the requirements of this act as follows, he shall take the action prescribed by section 26 and 27 of this act.

(1) In the case of a pesticide:

(a) If it is adulterated or misbranded;

(b) If it has not been registered under the provisions of sections 12, 13, 14, 15, 16, 17, 18, and 19 of this act;

(c) If it fails to bear on its label the information required by this act;

(d) If it is a white powder pesticide and is not colored as required under this act.

(2) In the case of a device, if it is misbranded.

Procedure upon happening of facts set out in section 25 of act.

SEC. 26. Upon the discovery of any of the facts set forth in section 25 of this act:

(1) The director may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any pesticide or device which he finds to be adulterated or misbranded within the meaning of this act. The pesticide or device shall not be sold, used or removed until the provisions of this act have been complied with and the pesticide or device has been released in writing by the director or the violation has been otherwise disposed of as

provided in this act by a court of competent jurisdiction.

(2) If upon discovery by the director of any adulterated or misbranded pesticide or device, the owner or custodian is not available for service of the order upon him, the director may attach the order to the pesticide or device and the pesticide or device shall not be sold, used or removed until the provisions of this act have been complied with and the pesticide or device has been released in writing by the director or the violation has been otherwise disposed of as provided in this act by a court of competent jurisdiction.

SEC. 27. (1) After service is made upon any person of a stop sale, use or removal order, either that person or the director may file an action in the superior court of the county in which a violation of this act is alleged to have occurred for an adjudication of the alleged violation. The court in such action may issue temporary or permanent injunctions, mandatory or restraining, and such intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this act.

—Continued.

(2) If the pesticide is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs, and the proceeds, if such pesticide is sold, less legal costs, shall be paid to the state treasury as provided in section 35 of this act. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide shall not be disposed of unlawfully, the court may direct that the pesticide be delivered to the owner thereof for relabeling or reprocessing as the case may be.

(3) When a decree of condemnation is entered against the pesticide, court costs, fees and storage and other proper expenses shall be awarded against

the person, if any, appearing as claimant of the pesticide.

Examination to determine compliance under act.

SEC. 28. The examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether or not they comply with the requirements of this act. If it appears from such examination that a pesticide or device fails to comply with the provisions of this act, and the director contemplates instituting criminal proceedings against any person, the director shall cause notice to be given to such person. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to the contemplated proceedings. If thereafter in the opinion of the director it appears that the provisions of the act have been violated by such person, the director shall refer to the prosecuting attorney for the county in which the violation occurred a copy of the results of the analysis or the examination of such pesticide.

Notice if criminal proceedings contemplated.

Presentation of views.

Referral to prosecuting attorney.

Imposition of penalties, discretionary.

SEC. 29. Nothing in this act shall be construed as requiring the director to report for prosecution or for the institution of condemnation proceedings minor violations of this act when he believes that the public interests will be best served by a suitable notice of warning in writing.

Penalty for violation of section 20 (1) of act.

SEC. 30. Any person violating section 20, subsection 1 of this act is guilty of a misdemeanor punishable by a fine of not less than one hundred nor more than three hundred dollars.

Penalty for violations other than section 20 (1).

SEC. 31. Any person violating any provisions of this act other than section 20, subsection 1 of this act is guilty of a misdemeanor. In any instance where a registrant was issued a warning in writing by the director pursuant to the provisions of this act, such registrant shall upon conviction of a violation of any provision of this act other than section 20, subsection

1 of this act be punished by a fine of not less than five hundred nor more than one thousand dollars, by imprisonment in the county jail for not more than one year, or both.

SEC. 32. The registration of any pesticide with reference to which a conviction of a violation of this act occurred shall terminate automatically. A pesticide, the registration of which has been terminated, may not again be registered unless the pesticide, its labeling and other material required to be submitted appear to the director to comply with all the requirements of this act.

Termination of registration upon conviction of violation—Re-registration.

SEC. 33. The director may bring an action to enjoin the violation or threatened violation of any provision of this act or any rule made pursuant to this act in the superior court of the county in which such violation occurs or is about to occur.

Injunctive action—Venue.

SEC. 34. No person charged with the enforcement of any provision of this act shall be directly or indirectly interested in the sale, manufacture or distribution of any pesticide or device.

Standard for enforcement officials.

SEC. 35. All moneys received by the director under the provisions of this act shall be paid into the state treasury.

Disposition of moneys.

SEC. 36. The director is authorized to cooperate with and enter into agreements with any other agency of the state, the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulation.

Intergovernmental cooperation.

SEC. 37. The license provisions of this act shall not apply to any pharmacist who is licensed pursuant to chapter 18.64 RCW and does not sell, offer for sale or hold for sale any pesticide required to be registered under the provisions of this act.

Licensing provisions not applicable to pharmacists.

SEC. 38. The enactment of this act shall not have the effect of terminating, or in any way modifying,

Savings—Liability.

any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

Savings—
Registrations.

SEC. 39. Any registration issued under the provisions of chapter 15.56 RCW and in effect on the effective date of this act shall continue in full force and effect until its expiration date, as if it has been issued under the provisions of this act, unless revoked prior thereto for cause by the director.

Short title.

SEC. 40. This act may be cited as the Washington pesticide act.

Severability.

SEC. 41. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Repeal.

SEC. 42. Sections 15.56.010 through 15.56.190, chapter 11, Laws of 1961 (House Bill No. 1) and RCW 15.56.010 through 15.56.190 are each repealed.

New chapter.

SEC. 43. The provisions of this act are added as a new chapter to chapter 11, Laws of 1961 (House Bill No. 1) and to Title 15, RCW.

Passed the House March 8, 1961.

Passed the Senate March 7, 1961.

Approved by the Governor March 20, 1961.

CHAPTER 245.

[H. B. 184.]

CITIES AND COUNTIES—AGREEMENTS TO CONSTRUCT,
MAINTAIN CITY STREETS.

AN ACT relating to cities and counties; authorizing agreements for construction and maintenance of city streets by counties; and adding a new section to chapter 36.75 RCW.

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