

ately preceding the application and has resided herein continuously for one year immediately preceding the application.

Passed the House February 7, 1961.

Passed the Senate March 9, 1961.

Approved by the Governor March 17, 1961.

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## CHAPTER 249.

[ Sub. H. B. 146. ]

### AGRICULTURAL PESTICIDES.

AN ACT relating to the application of agricultural pesticides; providing penalties; and repealing section 2, chapter 120, Laws of 1945 as last amended by sections 1, 2, 3 and 4, chapter 261, Laws of 1953 and RCW 17.20.010 through 17.20.040, sections 3 and 4, chapter 120, Laws of 1945 and RCW 17.20.050 and 17.20.060 and section 5, chapter 61, Laws of 1951 and RCW 17.20.070.

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

SECTION 1. The application and the control of the use of various agricultural 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 act 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.

Legislative declaration.

SEC. 2. For the purposes of this act:

Definitions.

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

"Department".

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

"Director".

(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,

"Person".

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.

"Agricultural pesticide".

(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.

"Device".

(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.

"Fungicide".

(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. "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, repel, or mitigate any insects which may be present in any environment whatsoever. "Insecticide".

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

(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. "Plant regulator".

(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. "Defoliant".

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

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

(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. "Insect".

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 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.

“Snails or slugs”. (18) “Snails or slugs” include all harmful agricultural mollusks.

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

“Apparatus”. (20) “Apparatus” means any ground or water surface or aerial device used to apply any pesticide.

“Restricted use pesticide”. (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 agricultural pests it is intended to prevent, destroy, control, or mitigate.

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

“Forest land”. (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.

“Agricultural crop”. (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.

“Board”. (25) “Board” means the agricultural pesticide advisory board.

Administration—Enforcement—Rules, scope of. SEC. 3. The director shall administer and enforce the provisions of this act and rules adopted hereunder.

(1) The director shall adopt rules:

(a) Governing the application and use, or prohibiting the use, or possession for use, of any pesticide which the director finds and determines to be injurious;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas, which areas may be prescribed by him, in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under his direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit; and

(d) Providing that all permittees shall keep records as required of licensees under section 10 of this act.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this act.

SEC. 4. 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.

Rules adopted  
subject to  
chapter 34.04  
RCW.

SEC. 5. All hearings for the suspension, denial or revocation of a license issued under the provisions of this act 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.

SEC. 6. The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or permit issued under the provisions of this act. Witnesses shall be entitled to

Subpoenas.

Witness fees.

fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended.

Pesticide applicator's license.

Fee.

SEC. 7. 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, of which the operator is not the source of power, 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.

Application for applicator's license, contents.

SEC. 8. Application for a pesticide applicator's license provided for in section 7 of this act 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) Any other necessary information prescribed by the director.

SEC. 9. 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 his knowledge of how to apply pesticides with the various apparatuses that he may have applied for a license to operate under the provisions of this act, and his knowledge of the nature and effect of pesticides used in such apparatuses: *Provided*, That the examination provisions of this section shall not apply, for one year after the effective date of this act, to persons licensed under chapter 17.20 RCW for the license period immediately preceding the effective date of this act.

Examination  
requisite for  
applicator's  
license.

Exempted  
persons.

SEC. 10. Pesticide applicators licensed under the provisions of this act shall keep records on a form prescribed by the director which shall include the following:

Licensed  
applicators to  
keep records.

(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 of the pesticide which was applied.

(6) The direction and estimated velocity of the wind at the time the pesticide was applied.

(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.

Pesticide operator's license.

SEC. 11. It shall be unlawful for any person to act as the operator directly in charge of any apparatus which is licensed under the provisions of this act for the application of any pesticide, without having obtained 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 operation 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 whether the applicant intends to operate either a ground or aerial apparatus, or both, for the application of pesticides. Application for a license to operate both aerial and ground apparatuses shall be accompanied by a license fee of twenty dollars. Application for a license to operate either a ground apparatus, or an aerial apparatus, but not both, shall be accompanied by a license fee of ten dollars: *Provided*, That the provisions of this section shall not apply to any individual who has passed the examination provided for in section 9 of this act.

Application, contents.

Fees.

Exempted persons.

Examination requisite for operator's license.

SEC. 12. The director shall not issue an operator's license before such applicant has passed an examination to demonstrate to the director his ability to apply pesticides with the various apparatuses that he may have applied for a license to operate, and



his knowledge of the nature and effect of pesticides used in such apparatuses. The director may renew any applicant's license subject to examination for new knowledge that may be required to apply pesticides with apparatuses the applicant has been licensed to operate.

SEC. 13. Any license provided for in this act shall expire on December 31st following issuance unless it has been revoked or suspended prior thereto by the director for cause.

Expiration date for licenses.

SEC. 14. If the application for renewal of any license provided for in this act is not filed prior to January 1st in any year, a penalty of twenty-five percent 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 certifying that he has not acted as a pesticide applicator or operator subsequent to the expiration of his license.

Penalty for late renewal of licenses.

SEC. 15. The director may deny, suspend, or revoke a license provided for in this act 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 act:

Denial, suspension, revocation of licenses, grounds.

(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 act, the rules adopted hereunder, or of any lawful order of the directors;

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

- (7) Made false or fraudulent records or reports;
- (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 agricultural 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 sections 9 and 12 of this act.

Applicator's license, evidence of financial responsibility requisite for.

SEC. 16. 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 the crops, trees, pastures, or the like 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.

—Minimum amount—  
Notice of reduction in.

SEC. 17. The amount of the surety bond or liability insurance as provided for in section 16 of this act 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 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 in-

surer for all claims shall be limited to the face of the bond or liability insurance policy.

SEC. 18. The director shall, whenever the licensee's surety bond or insurance policy has been reduced below the requirements of section 17 of this act, immediately suspend such licensee's license until such licensee's surety bond or insurance policy again meets the requirements of section 17 of this act.

—License suspension upon reduction of minimum amount.

SEC. 19. Any person suffering loss or damage resulting from the use or application by others of any pesticide must file with the director a verified report of loss setting forth, so far as known to the claimant, the following:

Claims for damage from application of pesticides. Contents.

(1) The name and address of the claimant.

(2) The type, kind, property alleged to be injured or damaged.

(3) The name of the person applying the pesticide and allegedly responsible.

(4) The name of the owner or occupant of the property for whom such application of the pesticide was made.

The report must be filed within sixty days from the time that the loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report must be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known.

—Filed—  
Legal effect.

The filing of such report or the failure to file such a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

The failure to file such a report shall not be a violation of this act. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by a pesticide applicator or operator, the director may refuse to hold a hearing for the denial, suspension, or revocation of

such pesticide applicator's or operator's license until such report is filed.

Farmer owner  
as exemption  
from license  
requirements.

SEC. 20. The provisions of this act relating to licenses and requirements for their issuance shall not apply to any farmer owner of ground apparatus applying pesticides for himself or others 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.

Forest land  
exclusion.

SEC. 21. The provisions of this act shall not apply to forest lands: *Provided*, That the director's rule making authority concerning restricted use pesticides which produce residues in violation of chapter 69.04 RCW as enacted or hereafter amended, and applicable penalties for the violation of such rules, provided for in this act, shall extend into forest lands for a distance of two thousand six hundred and forty feet and no further when such forest lands are adjacent to agricultural lands producing agricultural crops or products: *Provided further*, That when the director shall have exercised his rule making authority to include such forest lands, he shall forthwith notify the administrator of the department of natural resources of the regulations concerning such restricted use pesticides on such forest lands. If the administrator of natural resources should determine at any time that it is necessary to apply such restricted use pesticides on such forest lands in order to carry out his responsibility under the law to protect forest crops, he shall submit a proposal for application of such pesticides to the director. The administrator of natural resources and the director shall jointly consider such proposal to determine if such restricted use pesticides may be applied without contaminating agricultural crops on adjacent agricultural lands when used for food so as to be in violation of chapter 69.04 RCW as enacted or hereafter amended. If the administrator

of the department of natural resources and the director of agriculture are unable to agree upon such proposal, they shall select a third person, who shall be the chairman of the department of entomology of Washington State University, or the person acting in that capacity, and the three shall determine by majority vote whether the restricted use pesticides may be applied on such forest lands and under what conditions.

SEC. 22. (1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this act 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 section 11 of this act 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.

Governmental agencies subject to act.

Limited operator's license.

(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.

Liability—Venue.

SEC. 23. There is hereby created an agricultural pesticide advisory board consisting of two licensed pesticide applicators residing in the state, one shall be licensed to operate ground apparatus and one licensed to operate aerial apparatus, one entomologist in public service, 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

Agricultural pesticide advisory board. Members.

Appointment and removal of members —Terms.

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 act 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.

Board vacancies, governor to fill.

SEC. 24. Upon the death, resignation or removal for cause of any member of the board, the governor shall fill such vacancy, within thirty days of its creation, for the remainder of its term in the manner herein prescribed for appointment to the board.

Board powers.

SEC. 25. The board shall advise the director on any or all problems relating to the use and application of pesticides in the state.

Board chairman, meetings.

SEC. 26. The board shall elect one of its members chairman. The members of the board shall meet at such time and at such place as shall be specified by the call of the director, chairman or a majority of the board.

Expenses and per diem for board members.

SEC. 27. No person appointed to the board shall receive a salary or other compensation as a member of the board: *Provided*, That each member of the board shall receive traveling expenses and per diem

as prescribed by law for state employees for each day spent in actual attendance at or traveling to and from meetings of the board or special assignments for the board.

SEC. 28. All moneys collected under the provisions of this act shall be paid to the director for use exclusively in the enforcement of this act. All moneys held by the director for the enforcement of chapter 17.20 RCW shall be retained by him for the enforcement of this act.

Disposition of moneys.

SEC. 29. All licensed apparatuses shall be identified by a license plate furnished by the director, at no cost to the licensee, and shall be affixed in a location and manner upon such apparatus as prescribed by the director.

Licensed apparatuses to bear plates.

SEC. 30. 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. 31. The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective.

Savings.

SEC. 32. Any license issued under the provisions of chapter 17.20 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 had been issued under the requirements of section 9 of this act and satisfied all requirements for obtaining such license, unless revoked prior thereto for cause by the director subsequent to a hearing.

Savings—Licenses.

The director shall prorate the cost of any license provided for in this act for the license period beginning with the effective date of this act and ending December 31, 1961.

License fee prorated.

## Short title.

SEC. 33. This act may be cited as the Washington pesticide application act.

## General penalty.

SEC. 34. Any person who shall violate any provisions or requirements of this act or rules adopted hereunder shall be deemed guilty of a misdemeanor.

## Severability.

SEC. 35. 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. 36. Section 2, chapter 120, Laws of 1945 as last amended by sections 1, 2, 3 and 4, chapter 261, Laws of 1953 and RCW 17.20.010 through 17.20.040, sections 3 and 4, chapter 120, Laws of 1945 and RCW 17.20.050 and 17.20.060 and section 5, chapter 61, Laws of 1951 and RCW 17.20.070 are each repealed.

Passed the House March 9, 1961.

Passed the Senate March 9, 1961.

Approved by the Governor March 20, 1961.

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## CHAPTER 250.

[ H. B. 314. ]

### WEED DISTRICTS.

AN ACT relating to weed districts; providing procedures and penalties; amending sections 1 and 11, chapter 125, Laws of 1929 as amended by sections 1 and 2, chapter 193, Laws of 1937 and RCW 17.04.010 and 17.04.200; amending sections 4, 8, 9, 10, 12, and 13, chapter 125, Laws of 1929 and RCW 17.04.070, 17.04.150, 17.04.180, 17.04.190, 17.04.210, and 17.04.220; amending section 4, chapter 13, Laws of 1957 and RCW 17.04.260; adding a new section to chapter 125, Laws of 1929 and to chapter 17.04 RCW; and providing a penalty.

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

RCW 17.04.010  
amended.

SECTION 1. Section 1, chapter 125, Laws of 1929, as amended by section 1, chapter 193, Laws of 1937