

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(c) Received an honorable discharge from the United States Armed Forces; and

(d) Is certified by a Washington state chapter of the Pearl Harbor survivors association as satisfying the qualifications in (b) of this subsection.

(2) The plates shall be issued upon payment of the regular license fee and furnishing of proof satisfactory to the department that the recipient fulfills the requirements provided by subsection (1) of this section. Only one motor vehicle owned by the applicant may be so licensed at any one time.

(3) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement plates upon request and without charge.

(4) The plate shall remain with the recipient upon transfer or other disposition of the vehicle, and may be used on another motor vehicle registered to the recipient in accordance with the provisions of RCW 46.16.595 for such transfers.

Passed the Senate February 11, 1987.

Passed the House April 2, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 45

### [Substitute Senate Bill No. 5144] FERTILIZERS AND PESTICIDES

AN ACT Relating to regulation of fertilizers and pesticides; amending RCW 15.54.270, 15.54.272, 15.54.276, 15.54.280, 15.54.320, 15.54.340, 15.54.350, 15.54.370, 15.54.380, 15.54.390, 15.54.400, 15.54.420, 15.54.440, 15.58.150, 17.21.030, 17.21.090, 17.21.100, 17.21.120, 17.21.129, and 17.21.180; adding new sections to chapter 15.54 RCW; adding a new section to chapter 42.17 RCW; creating new sections; repealing RCW 15.54.310, 15.54.360, and 15.54.410; and prescribing penalties.

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

Sec. 1. Section 1, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.270 are each amended to read as follows:

Terms used in this chapter shall have the meaning given to them in ((RCW 15.54.272 through 15.54.302)) this chapter unless where used the context thereof shall clearly indicate to the contrary.

Sec. 2. Section 2, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.272 are each amended to read as follows:

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting

plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It shall not include unmanipulated animal and vegetable manures and other products exempted by the department by rule.

Sec. 3. Section 4, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.276 are each amended to read as follows:

"Bulk fertilizer" means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tanks, trailers, spreader trucks, and railcars.

Sec. 4. Section 6, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.280 are each amended to read as follows:

(1) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

- Total nitrogen (N) . . . . . \_\_\_\_percent
- Available phosphoric acid (P<sub>2</sub>O<sub>5</sub>) . . . . . \_\_\_\_percent
- Soluble potash (K<sub>2</sub>O) . . . . . \_\_\_\_percent

The percentage must be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(2) ~~For unacidulated mineral phosphatic ((materials and basic slag, the guaranteed analysis shall contain both total and available phosphoric acid and the degree of fineness. For bone, tankage, manipulated animal and vegetable manures, and other organic phosphatic materials, the guaranteed analysis shall contain total phosphoric acid))~~ material, basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(3) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as permitted or required by regulation of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(4) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the ~~((minimum total neutralizing power expressed in terms of calcium carbonate;))~~ calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(5) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO<sub>4</sub> . 2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.

**NEW SECTION.** Sec. 5. "Manipulation" means processed or treated in any manner, including drying to a moisture content of less than thirty percent.

**NEW SECTION.** Sec. 6. "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

**NEW SECTION.** Sec. 7. "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

**NEW SECTION.** Sec. 8. "Labeling" means all written, printed, or graphic matter, upon or accompanying any fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

**NEW SECTION.** Sec. 9. (1) The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapters 34.04 and 42.32 RCW apply to this chapter in the adoption of rules.

(2) The director may adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

- (a) Definitions of terms;
- (b) Determining standards for labeling and registration of fertilizers and agricultural minerals and limes;
- (c) The collection and examination of fertilizers and agricultural mineral and limes;
- (d) Recordkeeping by registrants;
- (e) Regulation of the use and disposal of fertilizers for the protection of ground water and surface water; and
- (f) The safe handling, transportation, storage, display, and distribution of fertilizers.

**NEW SECTION.** Sec. 10. Every person who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person, who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section.

Sec. 11. Section 20, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.320 are each amended to read as follows:

(1) Each brand and grade of commercial fertilizer shall be registered by the person whose name appears upon the label, or the person's agent, before being distributed in this state. Companies planning to mix customer-

formula fertilizers shall include the statement "Customer-Formula Grade Mixes" under the column headed GRADES on the brand registration application form. The application for registration shall be submitted to the department on forms furnished by the department, and shall be accompanied by a fee of twenty-five dollars per brand. Upon approval by the department, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. The application shall include the following information:

- (a) The brand name;
- (b) Declaration of guaranteed analyses of formulations to be sold;
- (c) The name and address of the registrant and the manufacturer; and
- (d) ~~((The sources from which the guaranteed plant nutrients are derived))~~ Any other information required by the department by rule.

A label or labels which shall comply with RCW 15.54.340 shall accompany said application.

(2) A distributor shall not be required to register any brand of commercial fertilizer which is already registered under this chapter by another person if the label does not differ in any respect from that previously registered. However, bulk commercial fertilizer shall be registered by each person distributing such commercial fertilizer.

(3) A distributor shall not be required to register each grade of a customer-formula fertilizer: PROVIDED, That such grade shall be distributed under a registered brand.

(4) If an application for renewal of the brand registration provided for in this section is not filed prior to January of any one year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal brand registration shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit that he has not distributed this brand subsequent to the expiration of his prior registration.

Sec. 12. Section 22, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.340 are each amended to read as follows:

(1) Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information:

- (a) The net weight;
- (b) The brand and grade. The grade shall not be required when no primary nutrients are claimed;
- (c) The guaranteed analysis; ~~((and))~~
- (d) The name and address of the registrant, ~~(, or manufacturer, or both).~~ The name and address of the manufacturer, if different from the registrant, may also be stated; and
- (e) Other information as required by the department by rule.

(2) If distributed in bulk, a written or printed statement of the information required by subsection (1) above shall accompany delivery and be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant for a period of six months and shall be available to the department upon request: PROVIDED, That each such delivery shall be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant, or manufacturer, or both; and the name and address of the purchaser.

Sec. 13. Section 23, chapter 22, Laws of 1967 ex. sess. as last amended by section 18, chapter 297, Laws of 1981 and RCW 15.54.350 are each amended to read as follows:

(1) ~~((Each distributor of a commercial fertilizer in this state shall pay to the department))~~ There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants an inspection fee of nine cents per ton of lime and eighteen cents per ton of all other commercial fertilizer ~~((sold by such person))~~ distributed during the year beginning July 1st and ending June 30th.

(2) In computing the tonnage on which the inspection fee must be paid, ~~((sales of commercial fertilizers to fertilizer manufacturers, sales))~~ distribution of commercial fertilizers in packages weighing five pounds net or less, and ~~((sales))~~ distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant who distributes to a nonregistrant ~~((dealer or consumer))~~ is responsible for ~~((reporting the tonnage and))~~ paying the inspection fee, unless the ~~((reporting and paying))~~ payment of fees ~~((have))~~ has been made by a prior distributor of the fertilizer.

NEW SECTION. Sec. 14. (1) Every registrant who distributes commercial fertilizer in this state shall file a semiannual report with the department setting forth the number of net tons of each commercial fertilizer so distributed in this state. The reports will cover the following periods: January 1 through June 30 and July 1 through December 31 of each year. The reports shall be due on or before thirty days following the close of the reporting period: PROVIDED, That upon permission of the department, an annual statement under oath may be filed by any person distributing within the state less than one hundred tons for each six-month period during any calendar year, and upon filing such statement, such person shall pay the inspection fee required under RCW 15.54.350. The department may accept

sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(2) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state shall include the inspection fees with the report on the same dates and for the same reporting periods mentioned in subsection (1) of this section.

(3) The department may, upon request, require registrants to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

(4) Inspection fees which are due and have not been remitted to the department by the due date shall have a late-collection fee of ten percent, but not less than five dollars, added to the amount due when payment is finally made. The assessment of this late collection fee shall not prevent the department from taking any other action as provided for in this chapter.

(5) It shall be a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.

NEW SECTION. Sec. 15. A new section is added to chapter 42.17 RCW to read as follows:

Information provided under section 14 of this act is exempt from disclosure under this chapter.

Sec. 16. Section 25, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.370 are each amended to read as follows:

(1) It shall be the duty of the department to inspect, sample, make analysis of, and test commercial fertilizers distributed within this state at such time and place and to such an extent as it may deem necessary to determine whether such fertilizers are in compliance with the provisions of this chapter. The department is authorized to stop any commercial vehicle transporting fertilizers on the public highways and direct it to the nearest scales approved by the department to check weights of fertilizers being delivered. The department is also authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to commercial fertilizers and to records relating to their distribution.

(2) The methods of sampling and analysis shall be those adopted by the department from officially recognized sources.

(3) The department, in determining for administrative purposes whether a fertilizer is deficient in any component or total nutrients, shall be

guided solely by the official sample as defined in RCW 15.54.300 and obtained and analyzed as provided for in this section.

(4) When the inspection and analysis of an official sample has been made, the results of analysis shall be forwarded by the department to the ((distributor)) registrant and to the purchaser, if known. Upon request and within thirty days, the department shall furnish to the ((distributor)) registrant a portion of the sample concerned.

(5) Analysis of an official sample by the department shall be accepted as prima facie evidence by any court of competent jurisdiction.

Sec. 17. Section 26, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.380 are each amended to read as follows:

(1) If the analysis shall show that any commercial fertilizer falls short of the guaranteed analysis in any one plant nutrient or in total nutrients, penalty shall be assessed in favor of the department in accordance with the following provisions:

(a) A penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than two percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed up to and including ten percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than three percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed from ten and one-tenth percent to twenty percent; a penalty of three times the commercial value of the deficiency, if such deficiency in any one plant nutrient is more than four percent under guarantee on any one commercial fertilizer in which that plant nutrient is guaranteed twenty and one-tenth percent and above.

(b) A penalty of three times the commercial value of the total nutrient deficiency shall be assessed when such deficiency is more than two percent under the calculated total nutrient guarantee.

(c) When a commercial fertilizer is subject to penalty under both (a) and (b) above, only the larger penalty shall be assessed.

(2) All penalties assessed under this section on any one commercial fertilizer, represented by the sample analyzed, shall be paid to the department within three months after the date of notice from the department to the registrant. The department shall deposit the amount of the penalty into the fertilizer, agricultural mineral and lime account.

(3) Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of such penalties imposed under subsections (1) and (2) above.

(4) The civil penalties payable in subsections (1) and (2) above shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying said civil penalties.

Sec. 18. Section 27, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.390 are each amended to read as follows:

For the purpose of ((initially)) determining the commercial value((s)) to be applied under the provisions of RCW 15.54.380, the department shall determine ((from the registrant's sales invoice the values per pound charged for nitrogen, available phosphoric acid, soluble potash, and other plant nutrients. The values so determined shall be used in determining and assessing penalties)) and publish the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state. The values so determined and published shall be used in determining and assessing penalty payments and shall be established by rule.

Sec. 19. Section 28, chapter 22, Laws of 1967 ex. sess. and RCW 15.54.400 are each amended to read as follows:

No superphosphate containing less than eighteen percent of available phosphoric acid(~~(, nor any mixed fertilizer in which the sum of the percentage guarantees for the nitrogen, available phosphoric acid, and soluble potash in the mixture is less than twenty percent, shall))~~ may be sold or offered for sale in this state (~~(except for specialty fertilizers and customer formula mixes. PROVIDED, That)).~~ Specialty fertilizers, except manipulated animal and vegetable manures, guaranteeing less than five percent total plant food shall contain on the label specific directions for use, and prior to registration, the department may require proof of the efficacy of the product when used as directed.

NEW SECTION. Sec. 20. No person may distribute misbranded commercial fertilizer. A commercial fertilizer shall be deemed to be misbranded:

(1) 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) If it is distributed under the name of another fertilizer product;

(3) If its labeling bears any reference to registration under this chapter unless such reference is required by rule under this chapter;

(4) If any word, statement, or other information, required by this chapter or rules adopted thereunder to appear on the label or labeling, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, design, 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 and use; or

(5) If it purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by the department by rule. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of american plant food control officials.



**NEW SECTION.** Sec. 21. No person may distribute an adulterated commercial fertilizer. A commercial fertilizer shall be deemed to be adulterated:

(1) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to beneficial plant life when applied in accordance with directions for use on the label, or if adequate warning statements or directions for use which may be necessary to protect plant life are not shown upon the label;

(2) If its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) If it contains unwanted viable seed.

Sec. 22. Section 30, chapter 22, Laws of 1967 ex .sess. and RCW 15-.54.420 are each amended to read as follows:

It shall be unlawful for any person to:

(1) Distribute ((α)) an adulterated or misbranded commercial fertilizer;

(2) Fail, refuse, or neglect to place upon or attach to each container of distributed commercial fertilizer a label containing all of the information required by this chapter;

(3) Fail, refuse, or neglect to deliver to a purchaser of bulk commercial fertilizer a statement containing the information required by this chapter; or

(4) Distribute a brand or grade of commercial fertilizer which has not been registered with the department((; ~~or~~

~~(5) Distribute commercial fertilizers containing viable seeds unless serving a desirable purpose and appropriately labeled)).~~

Sec. 23. Section 32, chapter 22, Laws of 1967 ex. sess. and RCW 15-.54.440 are each amended to read as follows:

The department may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer to hold said commercial fertilizer at a designated place when the department ((fnds)) has reasonable cause to believe such fertilizer is being offered or exposed for sale in violation of any of the provisions of this chapter, until this chapter has been complied with and said commercial fertilizer is released by order in writing of the department. The department shall release the commercial fertilizer so withdrawn when the owner or custodian has complied with the provisions of this chapter..

**NEW SECTION.** Sec. 24. The department may cancel the registration of any brand and grade of commercial fertilizer or refuse to register any brand and grade of commercial fertilizer as provided in this chapter, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of any provision of this chapter or any rule adopted thereunder: PROVIDED, That no registration may

be revoked or refused until the registrant has been given the opportunity to appear for a hearing by the department.

Sec. 25. Section 15, chapter 190, Laws of 1971 ex. sess. as amended by section 3, chapter 146, Laws of 1979 and RCW 15.58.150 are each amended to read as follows:

(1) It is unlawful for any person to distribute 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:

(a) Any pesticide which has not been registered pursuant to the provisions of this chapter;

(b) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs 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;

(c) 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 the information required in this chapter and the regulations adopted under this chapter;

(d) Any pesticide including arsenicals, fluorides, fluosilicates, and/or any other white powdered pesticides unless they have been distinctly denatured as to color, taste, odor, or form if so required by regulation;

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded;

(f) Any pesticide in containers, violating regulations adopted pursuant to RCW 15.58.040(2)(f) or pesticides found in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) To sell or deliver any restricted use pesticide to any person who is required by law or regulations promulgated under such law to have a permit to use or purchase such restricted use pesticides 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, subject to conditions established by the director, such permit may be obtained immediately prior to sale or delivery from any person designated by the director;

(b) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this chapter or regulations adopted under this chapter, or to add any substance to, or take any substance

from, a pesticide in a manner that may defeat the purpose of this chapter or the regulations adopted thereunder;

(c) For any person to use or cause to be used any pesticide contrary to label directions or to regulations of the director if those regulations differ from or further restrict the label directions: PROVIDED, The compliance to the term "contrary to label directions" is enforced by the director consistent with the intent of this ~~((act))~~ chapter;

(d) 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 RCW 15.58.060;

(e) For any person to make false, misleading, or erroneous statements or reports concerning any pest during or after a structural pest inspection.

Sec. 26. Section 3, chapter 249, Laws of 1961 as amended by section 2, chapter 92, Laws of 1979 and RCW 17.21.030 are each amended to read as follows:

The director shall administer and enforce the provisions of this chapter 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;

(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))~~ the director, 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))~~ the director's 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 RCW 17.21.100;

(e) Fixing and collecting examination fees; and

(f) Establishing testing procedures, licensing classifications, and requirements for licenses and permits as provided by this chapter.

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

Sec. 27. Section 9, chapter 249, Laws of 1961 as last amended by section 7, chapter 203, Laws of 1986 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 or she 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 or she has applied for, manually or with the various apparatuses that he or she 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 or she may apply manually or with such apparatuses under such classifications. The pesticide applicator's license shall expire on December 31 following issuance. The director shall charge an examination fee ~~((of five dollars))~~ established by the director by rule 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. 28. Section 10, chapter 249, Laws of 1961 as amended by section 3, chapter 191, Laws of 1971 ex. sess. 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)))~~ (5) 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)))~~ (6) Any other reasonable information required by the director.

~~((8)))~~ (7) 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. 29. Section 12, chapter 249, Laws of 1961 as last amended by section 8, chapter 203, Laws of 1986 and RCW 17.21.120 are each amended to read as follows:

The director shall not issue an operator's license before such applicant has passed an examination to demonstrate to the director (1) ~~((his))~~ the ability to apply pesticides in the classifications ~~((he))~~ the applicant has applied for, manually or with the various apparatuses that he or she 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 operator's license shall expire on December 31 following issuance. The director shall charge an examination fee ~~((of five dollars))~~ established by the director by rule 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. 30. Section 26, chapter 297, Laws of 1981 and RCW 17.21.129 are each amended to read as follows:

Except as provided in RCW 17.21.203(1), it is unlawful for a person to use or supervise the use of any pesticide which is restricted to use by certified applicators, on small experimental plots for research purposes when no charge is made for the pesticide and its application, without a demonstration and research applicator's license.

Demonstration and research applicators shall be subject to the record-keeping requirements of RCW 17.21.100. The director shall not issue a demonstration and research license until the applicant has passed an examination to demonstrate (1) the applicant's ability to apply pesticides in the classifications the applicant has applied for, and (2) the applicant's knowledge of the nature and effect of pesticides applied manually or used in such apparatuses under such classifications. A license fee of twenty dollars shall be paid before a demonstration and research license may be issued. The director shall charge ~~((a five dollar))~~ an examination fee established by the director by rule for each examination administered on other than a regularly scheduled examination date. The demonstration and research applicator's license shall be valid until revoked or until the director determines that recertification is necessary.

Sec. 31. Section 18, chapter 249, Laws of 1961 as amended by section 11, chapter 177, Laws of 1967 and RCW 17.21.180 are each amended to read as follows:

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 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 or she is in compliance with the provisions of RCW ~~((17.21.120))~~ 17.21.170.

**NEW SECTION.** Sec. 32. This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.

**NEW SECTION.** Sec. 33. 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.

**NEW SECTION.** Sec. 34. Sections 5 through 10, 14, 20, 21, and 24 of this act are each added to chapter 15.54 RCW.

**NEW SECTION.** Sec. 35. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.310;

(2) Section 24, chapter 22, Laws of 1967 ex. sess., section 10, chapter 257, Laws of 1975 1st ex. sess., section 3, chapter 154, Laws of 1979 and RCW 15.54.360; and

(3) Section 29, chapter 22, Laws of 1967 ex. sess. and RCW 15.54-.410.

Passed the Senate April 7, 1987.

Passed the House April 1, 1987.

Approved by the Governor April 14, 1987.

Filed in Office of Secretary of State April 14, 1987.

## CHAPTER 46

[Substitute Senate Bill No. 5581]

### BEER—RETAILERS MAY OFFER SAMPLES

AN ACT Relating to beer retailers; and amending RCW 66.24.360.

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

Sec. 1. Section 23Q added to chapter 62, Laws of 1933 ex. sess. by section 1, chapter 217, Laws of 1937 as last amended by section 41, chapter 5, Laws of 1981 1st ex. sess. and RCW 66.24.360 are each amended to read as follows:

There shall be a beer retailer's license to be designated as class E license to sell pasteurized beer at retail in bottles and original packages, not to be consumed upon the premises where sold, at any store other than the state liquor stores; fee seventy-five dollars per annum for each store: **PROVIDED**, That a holder of a class A or a class B license shall be entitled to the privileges permitted in this section by paying an annual fee of twenty-five dollars for each store. Licensees under this section whose business is primarily the sale of beer and/or wine at retail may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section shall be subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or wholesaler of liquor.