

the exemption or his or her spouse during the previous year for the treatment or care of either person in a nursing home.

(6) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, ~~((1980;))~~ 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

- (a) Capital gains;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits other than attendant-care and medical-aid payments;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

(7) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

NEW SECTION. Sec. 7. 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. 8. This act shall take effect April 1, 1990, and shall be effective for taxes levied for collection in 1991 and thereafter.

Passed the House April 21, 1989.

Passed the Senate April 14, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

## CHAPTER 380

[House Bill No. 2222]

### AGRICULTURE—PESTICIDE REGULATION AND UNEMPLOYMENT AND WORKERS' COMPENSATION COVERAGE FOR AGRICULTURAL EMPLOYEES

AN ACT Relating to state regulatory programs; amending RCW 15.58.030, 15.58.040, 15.58.050, 15.58.060, 15.58.065, 15.58.070, 15.58.080, 15.58.110, 15.58.120, 15.58.130, 15.58.150, 15.58.160, 15.58.170, 15.58.180, 15.58.200, 15.58.210, 15.58.220, 15.58.230, 15.58.240, 15.58.250, 15.58.260, 15.58.280, 15.58.290, 15.58.330, 15.58.335, 15.58.340, 15.58.910, 17.21.020, 17.21.030, 17.21.040, 17.21.050, 17.21.070, 17.21.080, 17.21.100, 17.21.110, 17.21.122, 17.21.126, 17.21.129, 17.21.130, 17.21.140, 17.21.150, 17.21.160, 17.21.180, 17.21.190, 17.21.200, 17.21.220, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 17.21.280, 17.21.290, 17.21.315, 17.21.320, 17.21.910, 70.104.030, 50.04.150, 50.29.025, 50.20.100, and 50.29.062; adding new sections to chapter 15.58 RCW; adding new sections to chapter 17.21 RCW; adding new sections to chapter 49.70 RCW; adding new sections to chapter 70.104 RCW; adding

a new chapter to Title 49 RCW; creating new sections; repealing RCW 15.58.190, 15.58.930, 17.21.090, 17.21.120, 17.21.124, and 17.21.205; prescribing penalties; and providing effective dates.

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

Sec. 1. Section 3, chapter 190, Laws of 1971 ex. sess. as last amended by section 26, chapter 182, Laws of 1982 and RCW 15.58.030 are each amended to read as follows:

As used in this chapter the words and phrases defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) ~~("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, mollusk, 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; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; (c) any substance or mixture of substances intended to be used as a spray adjuvant; and (d) any other substances intended for such use as may be named by the director by regulation:~~

~~(2) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests including devices used in conjunction with pesticides such as lindane vaporizers.~~

~~(3) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropod, or mollusk pest:~~

~~(4) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.~~

~~(5) "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 by regulation to be a pest:~~

~~(6) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including algae and other aquatic weeds:~~

~~(7) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes:~~

~~(8) "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 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:~~

(9) "~~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:

(10) "~~Desiccant~~" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues:

(11) "~~Spray adjuvant~~" means any 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 to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used:

(12) "~~Pest~~" means, but is not limited to, any insect, other arthropod, fungus, rodent, nematode, mollusk, 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 by regulation to be a pest:

(13) "~~Nematode~~" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms:

(14) "~~Arthropod~~" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans:

(15) "~~Insects~~" means any of the numerous small invertebrate animals whose bodies, in the adult stage, are more or less obviously segmented with six legs and usually with two pairs of wings, belonging to the class insecta; for example, aphids, beetles, bugs, bees, and flies:

(16) "~~Fungi~~" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals:

(17) "~~Weed~~" means any plant which grows where not wanted:

(18) "~~Mollusk~~" means any invertebrate animal characterized by a soft unsegmented body usually partially or wholly enclosed in a calcareous shell, having a foot and mantle; for example, slugs and snails:

(19) "~~Restricted use pesticide~~" means any pesticide or device which the director has found and determined subsequent to hearing under the provisions of chapter 17.21 RCW Washington pesticide application act or this chapter as enacted or hereafter amended, to be so injurious to persons, pollinating insects, bees, animals, crops, wildlife, or lands other than the pests it is intended to prevent, destroy, control, or mitigate that additional restrictions are required:

~~(20) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.~~

~~(21) "Pesticide dealer" means any person who distributes any of the following pesticides:~~

~~(a) "Highly toxic pesticides" and/or~~

~~(b) "EPA restricted use pesticides" or "restricted use pesticides" which by regulation are restricted to distribution by licensed pesticide dealers only and/or~~

~~(c) Any other pesticide except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.~~

~~(22) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license:~~

~~(23) "Pest control consultant" means any individual who offers or supplies technical advice, supervision or aid or makes recommendations to the user of:~~

~~(a) "Highly toxic pesticides" and/or~~

~~(b) "EPA restricted use pesticides" or "restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or~~

~~(c) Any other pesticides except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.~~

~~(24) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. PROVIDED, That in the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need be named:~~

~~(25) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant:~~

~~(26) "Inert ingredient" means an ingredient which is not an active ingredient:~~

~~(27) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment:~~

~~(28) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated:~~

~~(29) "Department" means the department of agriculture of the state of Washington:~~

~~(30) "Director" means the director of the department or his duly authorized representative.~~

~~(31) "Registrant" means the person registering any pesticide pursuant to the provisions of this chapter.~~

~~(32) "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.~~

~~(33) "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; and~~

~~(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 department of agriculture; interior, health, education and welfare; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.~~

~~(34) "Highly toxic" means any highly toxic pesticide as determined by the director under RCW 15.58.040.~~

~~(35) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act as enacted or hereafter amended.~~

~~(36) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.~~

~~(37) "Regulation" means rule or regulation.~~

~~(38) "EPA" means the United States environmental protection agency.~~

~~(39) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.~~

~~(40) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 135).~~

~~(41) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.~~

~~(42) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.~~

~~(43) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application~~

and a master license expiration date common to each renewable license endorsement)) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

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

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "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.

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

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

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

(8) "Director" means the director of the department or a duly authorized representative.

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(10) "EPA" means the United States environmental protection agency.

(11) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(12) "FIFRA" means the federal insecticide, fungicide, and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

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

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

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

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

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in

any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need by named.

(18) "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, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(19) "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.

(20) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide, device, or immediate container, and the outside container or wrapper of the retail package.

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

(a) Upon the pesticide, 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; and

(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; interior; education; health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

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

(23) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed using a master application and a master license expiration date common to each renewable license endorsement.

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

(25) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with

elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

(26) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) "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 a living person or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(28) "Pest control consultant" means any individual who sells or offers for sale at other than a licensed pesticide dealer outlet or location, or who offers or supplies technical advice, supervision, or aid, or makes recommendations to the user of:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(29) "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, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(30) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act.

(31) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(32) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(33) "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 their produce, 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.



(34) "Registrant" means the person registering any pesticide under the provisions of this chapter.

(35) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(36) "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 by rule to be a pest.

(37) "Spray adjuvant" means any 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 to the effect of the pesticide, and which is in a package or container separate from that of the pesticide with which it is to be used.

(38) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(39) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

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

Sec. 2. Section 4, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.040 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and ~~((regulations))~~ rules adopted ~~((hereunder))~~ under this chapter. All the authority and requirements provided for in chapter ~~((34.04))~~ 34.05 RCW (Administrative Procedure Act) and chapter ~~((42.32))~~ 42.30 RCW shall apply to this chapter in the adoption of ~~((regulations))~~ rules including those requiring due notice and a hearing for the adoption of permanent ~~((regulations))~~ rules.

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

(a) Declaring as a pest any form of plant or animal life or virus which is injurious to plants, ~~((men))~~ people, animals (domestic or otherwise), land, articles, or substances;

(b) Determining that certain pesticides are highly toxic to ~~((man. The director shall, in making this determination, be guided by the federal definition of highly toxic, as defined in Title 7, code of federal regulations 362.8 as issued or hereafter amended))~~ people. For the purpose of this chapter, highly toxic pesticide means any pesticide that conforms to the criteria in 40

C.F.R. Sec. 162.10 for toxicity category I due to oral inhalation or dermal toxicity. The director shall publish a list of all pesticides, determined to be highly toxic, by their common or generic name and their trade or brand name if practical. Such list shall be kept current and shall, upon request, be made available to any interested party;

(c) Determining standards for denaturing pesticides by color, taste, odor, or form;

(d) The collection and examination of samples of pesticides or devices;

(e) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(f) Restricting or prohibiting the use of certain types of containers or packages for specific pesticides. These restrictions may apply to type of construction, strength, and/or size to alleviate danger of spillage, breakage, misuse, or any other hazard to the public. The director shall be guided by federal regulations concerning pesticide containers;

(g) Procedures in making of pesticide recommendations;

(h) Adopting a list of restricted use pesticides for the state or for designated areas within the state if the director determines that such pesticides may require ~~((regulations))~~ rules restricting or prohibiting their distribution or use. The director may include in the ~~((regulation))~~ rule the time and conditions of distribution or use of such restricted use pesticides and may, if ~~((he deems))~~ it is found necessary to carry out the purpose and provisions of this chapter, require 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 or concentrations ~~((PROVIDED, That))~~. The director may require all persons issued such permits to maintain records as to the use of all the restricted use pesticides;

(i) Label requirements of all pesticides required to be registered under provisions of this chapter; and

(j) Regulating the labeling of devices.

(3) For the purpose of uniformity and to avoid confusion endangering the public health and welfare the director may adopt ~~((regulations))~~ rules in conformity with the primary pesticide standards, particularly as to labeling, established by the United States ~~((department of agriculture))~~ environmental protection agency or any other federal agency.

Sec. 3. Section 5, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.050 are each amended to read as follows:

Every pesticide which is distributed within this state or delivered for transportation or transported in intrastate 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 chapter. Such registration shall be renewed annually prior to January 1: **PROVIDED**, That registration is not required if a pesticide is 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 chapter (~~(; 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)~~); or if a written permit has been obtained from the director to ~~((set))~~ distribute or use the specific pesticide for experimental purposes subject to restrictions and conditions set forth in the permit.

Sec. 4. Section 6, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.060 are each amended to read as follows:

(1) The applicant for registration shall file a statement with the department which shall include:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(b) The name of the pesticide;

(c) The complete formula of the pesticide, including the active and inert ingredients: PROVIDED, That confidential business information of a proprietary nature is not made available to any other person and is exempt from disclosure as a public record, as provided by RCW 42.17.260;

~~(d)~~ Other necessary information required for completion of the department's application for registration form; and

~~((t))~~ (e) 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.

~~(2) ((The director, when he deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients:~~

~~(3))~~ The director may require a full description of the tests made and the results thereof upon which the claims are based.

~~((t))~~ (3) The director may prescribe other necessary information by ~~((regulation))~~ rule.

Sec. 5. Section 4, chapter 146, Laws of 1979 and RCW 15.58.065 are each amended to read as follows:

(1) In submitting data required by this chapter, the applicant may:

(a) Mark clearly any portions ~~((thereof))~~ which in ~~((his))~~ the applicant's opinion are trade secrets or commercial or financial information; and

(b) Submit such marked material separately from other material required to be submitted under this chapter.

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make public information which in ~~((his))~~ the director's judgment should be privileged or confidential because it contains or relates to trade secrets or commercial or financial information except that, when necessary to carry out the provisions of this chapter, information relating to

unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director when necessary under this chapter.

(3) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (2) of this section, ~~((he))~~ the director shall notify the applicant or registrant in writing, by certified mail. The director shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in the superior court of Thurston county for a declaratory judgment as to whether such information is subject to protection under subsection (2) of this section.

Sec. 6. Section 7, chapter 190, Laws of 1971 ex. sess. as amended by section 2, chapter 95, Laws of 1983 and RCW 15.58.070 are each amended to read as follows:

(1) Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee ~~((of twenty dollars))~~ for each pesticide registered by the department for such person. The registration fee for the registration of pesticides for any one person during a calendar year shall be: One hundred five dollars for each of the first twenty-five pesticides registered; one hundred dollars for each of the twenty-sixth through one-hundredth pesticides registered; seventy-five dollars for each of the one hundred first through one hundred fiftieth pesticides registered; and fifty dollars for each additional pesticide registered. In addition, the department may establish by rule a registration fee not to exceed ten dollars for each registered product labeled and intended for home and garden use only. The revenue generated by the home and garden use only fees shall be deposited in the agriculture—local fund, to be used to assist in funding activities of the pesticide incident reporting and tracking review panel. All pesticide registrations expire on December 31st of each year.

(2) Any registration approved by the director and in effect on the 31st day of December for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 7. Section 8, chapter 190, Laws of 1971 ex. sess. as amended by section 3, chapter 95, Laws of 1983 and RCW 15.58.080 are each amended to read as follows:

If the renewal of a pesticide registration is not filed before January 1st of each year, an additional fee of ~~((ten))~~ twenty-five dollars shall be assessed and added to the original fee. The additional fee shall be paid by the applicant before the registration renewal for that pesticide shall be issued

unless the applicant furnishes an affidavit certifying that ~~((he))~~ the applicant did not distribute the unregistered pesticide during the period of non-registration. The payment of the additional fee is not a bar to any prosecution for doing business without proper registry.

Sec. 8. Section 11, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.110 are each amended to read as follows:

(1) 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 chapter or ~~((regulations))~~ rules adopted ~~((thereunder he shall notify))~~ under this chapter, the registrant shall be notified of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of this chapter so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the corrections the director shall refuse to register the pesticide. The applicant may request a hearing as provided for in chapter ~~((34.04))~~ 34.05 RCW.

(2) The director may, when ~~((he))~~ the director determines that a pesticide or its labeling does not comply with the provisions of this chapter or the ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter, cancel the registration of a pesticide after a hearing in accordance with the provisions of chapter ~~((34.04))~~ 34.05 RCW.

Sec. 9. Section 12, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.120 are each amended to read as follows:

The director may, when ~~((he))~~ the director determines that there is or may be an imminent hazard to the public health and welfare, suspend on ~~((his))~~ the director's own motion, the registration of a pesticide in conformance with the provisions of chapter ~~((34.04))~~ 34.05 RCW.

Sec. 10. Section 13, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.130 are each amended to read as follows:

The term "misbranded" shall apply:

(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 provision of this chapter unless such reference be required by ~~((regulations))~~ rules under this chapter;

(c) If any word, statement, or other information, required by this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter 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 and use;

(d) If the label does not bear:

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

(ii) Name, brand or trademark under which the pesticide is sold;

(iii) 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;

(iv) Directions for use and a warning or caution statement which are necessary and which if complied with would be adequate to protect the public and to prevent injury to the public, including living ~~((man))~~ people, useful vertebrate animals, useful vegetation, useful invertebrate animals, wildlife, and land; and

(v) The weight or measure of the content, subject to the provisions of chapter 19.94 RCW (state weights and measures act) as enacted or hereafter amended.

(e) If that pesticide contains any substance or substances in quantities highly toxic to ~~((man))~~ people, determined as provided by RCW 15.58.040, unless the label bears, in addition to any other matter required by this chapter:

(i) The skull and crossbones;

(ii) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

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

(f) If the pesticide container does not bear a label or if the label does not contain all the information required by this chapter or the ~~((regulations))~~ rules adopted under this chapter.

(3) To a spray adjuvant when the label fails to state the type or function of the principal functioning agents.

Sec. 11. Section 15, chapter 190, Laws of 1971 ex. sess. as last amended by section 25, chapter 45, Laws of 1987 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)) rules 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)) rule;

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

(f) Any pesticide in containers, violating ((regulations)) rules 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)) rules promulgated under such law to be certified, licensed, or have a permit to use or purchase ((such restricted-use pesticides)) the pesticide unless such person or ((his)) the person's agent, to whom sale or delivery is made, has a valid certification, license, or 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)) rules 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)) rules 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 chapter;

(d) For any person to use for his or her 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 or in connection with any pesticide complaint or investigation.

Sec. 12. Section 16, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.160 are each amended to read as follows:

When the director has reasonable cause to believe a pesticide or device is being distributed, stored, or transported in violation of any of the provisions of this chapter, or of any of the prescribed ~~((regulations))~~ rules under this chapter, ~~((he))~~ the director may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of any such pesticide or device. If 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. The pesticide or device shall not be sold, used or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing under conditions specified by the director, or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction.

Sec. 13. Section 17, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.170 are each amended to read as follows:

(1) After service of a "stop sale, use or removal" order is made upon any person, either that person or the director may file an action in a court of competent jurisdiction in the county in which a violation of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter 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 chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter: PROVIDED, That no authority is granted hereunder to affect the sale or use of products on which legally approved pesticides have been legally used.

(2) If the pesticide or device 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 or device is sold, less cost including legal costs, shall be paid to the state treasury as provided in RCW 15.58.410: PROVIDED, That the pesticide or device shall not be sold contrary to the provisions of this chapter or ~~((regulations))~~ rules adopted ~~((thereunder))~~ under this chapter. Upon payment of costs and execution and delivery of a good and



sufficient bond conditioned that the pesticide or device shall not be disposed of unlawfully, the court may direct that the pesticide or device 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.

Sec. 14. Section 18, chapter 190, Laws of 1971 ex. sess. as last amended by section 4, chapter 95, Laws of 1983 and RCW 15.58.180 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license shall expire on the master license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license shall be accompanied by a ~~((twenty))~~ thirty-dollar annual license fee and shall be made through the master license system and shall include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, 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. The application shall further state the principal business address of the applicant in the state and elsewhere, 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.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of ~~((his))~~ the applicator's pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a

pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

Sec. 15. Section 20, chapter 190, Laws of 1971 ex. sess. as amended by section 19, chapter 297, Laws of 1981 and RCW 15.58.200 are each amended to read as follows:

The director shall require each pesticide dealer manager to demonstrate to the director ~~((his))~~ knowledge of pesticide laws and ~~((regulations))~~ rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license shall be accompanied by a license fee of ~~((ten))~~ fifty dollars. ~~((The director shall charge a five dollar examination fee for each examination administered on other than a regularly scheduled examination date.))~~ The pesticide dealer manager license shall ~~((be valid until revoked or until the director determines relicensing is necessary))~~ expire on the fifth December 31st after the date of issuance.

Sec. 16. Section 21, chapter 190, Laws of 1971 ex. sess. as amended by section 5, chapter 95, Laws of 1983 and RCW 15.58.210 are each amended to read as follows:

No individual may perform services as a pest control consultant without obtaining from the director an annual license, which license shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of ~~((twenty))~~ thirty dollars. Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; licensed demonstration and research applicators; employees of federal, state, county, or municipal agencies when acting in their official capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet, are exempt from this licensing provision.

Sec. 17. Section 22, chapter 190, Laws of 1971 ex. sess. as last amended by section 4, chapter 203, Laws of 1986 and RCW 15.58.220 are each amended to read as follows:

For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW ~~((15.58.030(23)))~~ 15.58.030(28). No person shall act as a public pest control consultant on or after February 28, 1973 without first obtaining ~~((a nonfee))~~ an annual license from the director. ~~((Public pest control consultant licenses shall expire on the fifth December 31st from the date of issuance. PROVIDED, That all public pest control consultant licenses valid on December 31, 1985, shall expire on December 31, 1990.))~~ Application for a license shall be on a form

prescribed by the director (~~(-PROVIDED, That)~~) and shall be accompanied by an annual license fee of fifteen dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or ((his)) a duly authorized representative, public pest control consultants licensed and working in the health vector field, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

Sec. 18. Section 23, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.230 are each amended to read as follows:

The director shall require each applicant for a pest control consultant's license or a public pest control consultant's license to demonstrate to the director the applicant's knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination for the classifications for which ((he)) the applicant has applied prior to issuing ((his)) the license. (~~An examination fee of five dollars shall be charged when an examination is requested at other than a regularly scheduled examination date.~~)

NEW SECTION. Sec. 19. A new section is added to chapter 15.58 RCW to read as follows:

(1) If an application for renewal of a pesticide dealer license is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

(2) If application for renewal of any license provided for in this chapter other than the pesticide dealer license is not filed on or before the expiration date of the license, a penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued: **PROVIDED**, That such penalty shall not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a licensee subsequent to the expiration of the license.

(3) Any license for which a renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied.

Sec. 20. Section 24, chapter 190, Laws of 1971 ex. sess. as amended by section 5, chapter 203, Laws of 1986 and RCW 15.58.240 are each amended to read as follows:

The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license ((he)) the licensee shall be limited to practicing within these classifications. Each such classification shall be subject to separate

testing procedures and requirements: PROVIDED, That no person shall be required to pay an additional license fee if ((such)) the person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may charge an examination fee established by the director by rule when an examination is necessary, before a license may be issued or when application for a license and examination is made at other than a regularly scheduled examination date. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to reexamination or other recertification standards as determined by the director when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

**NEW SECTION.** Sec. 21. A new section is added to chapter 15.58 RCW to read as follows:

Unless revoked for cause by the director, any registration, license, or permit in effect on the effective date of this section shall continue in full force until its expiration date. Public pest control consultant and pesticide dealer manager licenses valid on December 31, 1985, shall expire on December 31, 1990, and public pest control and pesticide dealer manager licenses issued subsequent to December 31, 1985, and valid on December 31, 1986, shall expire on December 31, 1991.

Sec. 22. Section 25, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.250 are each amended to read as follows:

Any person issued a license or permit under the provisions of this chapter may be required by the director to keep accurate records on a form prescribed by ((him)) the director which may contain the following information:

- (1) The delivery, movement or holding of any pesticide or device, including the quantity;
- (2) The date of shipment and receipt;
- (3) The name of consignor and consignee; and
- (4) Any other information, necessary for the enforcement of this chapter, 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 chapter.

Sec. 23. Section 26, chapter 190, Laws of 1971 ex. sess. as amended by section 2, chapter 158, Laws of 1985 and RCW 15.58.260 are each amended to read as follows:

The director is authorized to impose a civil penalty and/or deny, suspend, or revoke any license, registration or permit provided for in this chapter subject to a hearing and in conformance with the provisions of chapter ((34.04)) 34.05 RCW (Administrative Procedure Act) in any case

in which the director finds there has been a failure or refusal to comply with the provisions of this chapter or rules adopted (~~(hereunder)~~) under this chapter.

Sec. 24. Section 28, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.280 are each amended to read as follows:

The sampling and 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 chapter. The director is 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 pesticides or devices. If it appears from such examination that a pesticide or device fails to comply with the provisions of this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter, 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 this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter have been violated by such person, the director shall refer a copy of the results of the analysis or the examination of such pesticide or device to the prosecuting attorney for the county in which the violation occurred.

Sec. 25. Section 29, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.290 are each amended to read as follows:

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

Sec. 26. Section 33, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.330 are each amended to read as follows:

Any person violating any provisions of this chapter or (~~(regulations)~~) rules adopted (~~(thereunder)~~) under this chapter is guilty of a misdemeanor.

Sec. 27. Section 1, chapter 158, Laws of 1985 and RCW 15.58.335 are each amended to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than (~~(one)~~) seven thousand five hundred 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 section and may be subject to the civil penalty herein provided.

Sec. 28. Section 34, chapter 190, Laws of 1971 ex. sess. and RCW 15-.58.340 are each amended to read as follows:

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

NEW SECTION. Sec. 29. A new section is added to chapter 15.58 RCW to read as follows:

Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation.

NEW SECTION. Sec. 30. A new section is added to chapter 15.58 RCW to read as follows:

By December 1, 1989, and each subsequent December 1, the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum, a review of the department's enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed.

Sec. 31. Section 43, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.910 are each amended to read as follows:

The repeal of RCW 15.57.010 through 15.57.930 and the enactment of this chapter shall not be deemed to have repealed any ((regulations)) rules adopted under the provisions of RCW 15.57.010 through 15.57.930 in effect immediately prior to such repeal and not inconsistent with the provisions of this chapter. All such ((regulations)) rules shall be considered to have been adopted under the provisions of this chapter.

NEW SECTION. Sec. 32. A new section is added to chapter 15.58 RCW to read as follows:

Each registration and licensing fee under this chapter is increased by a surcharge of five dollars to be deposited in the agriculture—local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations.

Sec. 33. Section 2, chapter 249, Laws of 1961 as last amended by section 1, chapter 92, Laws of 1979 and RCW 17.21.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

~~(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent or employee thereof. This term shall import either the singular or plural as the case may be.~~

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

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

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

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

~~(8) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel or mitigate rodents or any other vertebrate animal which the director may declare to be a pest.~~

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

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

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

~~(12) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or~~

~~crop plants or the produce thereof, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.~~

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

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

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

~~(16) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class 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.~~

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

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

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

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

~~(21) "Restricted use pesticide" means any pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including man, lands, beneficial insects, animals, crops, and wildlife, other than pests.~~

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

~~(23) "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.~~



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

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

(26) "~~Agricultural commodity~~" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(27) "~~Certified applicator~~" means any individual who is licensed as a pesticide applicator, pesticide operator, public operator, private-commercial applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators, only.

(28) "~~Direct supervision~~" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by him or his employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision.

(29) "~~EPA~~" means the United States environmental protection agency.

(30) "~~EPA restricted use pesticide~~" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(31) "~~FIFRA~~" means the federal insecticide, fungicide and rodenticide act, as amended (61 Stat. 163, 7 U.S.C. Sec. 135).

(32) "~~Private applicator~~" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators by the director, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(33) "~~Private-commercial applicator~~" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide or (b) any restricted use pesticide restricted to use only by certified applicators for

purposes other than the production of any agricultural commodity on lands owned or rented by him or his employer.

~~(34) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director))~~ "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(5) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(6) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(7) "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.

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

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

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

(11) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(12) "Director" means the director of the department or a duly authorized representative.

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

(14) "EPA" means the United States environmental protection agency.

(15) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(16) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

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

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

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

(20) "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, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(21) "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.

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

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

(24) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

(25) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(26) "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 a living person or other animal, which is normally considered to be a pest, or which the director may declare to be a pest.

(27) "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, snail, slug, fungus, weed, and any other form of plant or animal life or virus except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(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.

(28) "Pesticide advisory board" means the pesticide advisory board as provided for in this chapter.

(29) "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 their produce, 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.

(30) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators by the director, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation

other than trading of personal services between producers of agricultural commodities on the land of another person.

(31) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide or (b) any restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(32) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(33) "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 by rule to be a pest.

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

(35) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

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

Sec. 34. Section 3, chapter 249, Laws of 1961 as last amended by section 26, chapter 45, Laws of 1987 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 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 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;

~~(d) ((Providing that all permittees shall keep records as required of licensees under RCW 17.21.100))~~ Establishing recordkeeping requirements for licensees, permittees, and certified applicators;

(e) Fixing and collecting examination fees; ~~((and))~~

(f) Establishing testing procedures, licensing classifications, and requirements for licenses and permits as provided by this chapter; and  
(g) Fixing and collecting permit fees.

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

Sec. 35. Section 4, chapter 249, Laws of 1961 and RCW 17.21.040 are each amended to read as follows:

All rules adopted under the provisions of this chapter shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW as enacted or hereafter amended, concerning the adoption of rules.

Sec. 36. Section 5, chapter 249, Laws of 1961 as amended by section 4, chapter 158, Laws of 1985 and RCW 17.21.050 are each amended to read as follows:

All hearings for the imposition of a civil penalty and/or the suspension, denial or revocation of a license issued under the provisions of this chapter shall be subject to the provisions of chapter ~~((34.04))~~ 34.05 RCW ~~((as enacted or hereafter amended, concerning contested cases))~~.

Sec. 37. Section 7, chapter 249, Laws of 1961 as last amended by section 21, chapter 297, Laws of 1981 and RCW 17.21.070 are each amended to read as follows:

It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator~~((s))~~ license. ~~((Application for such a license shall be made on or before January 1st of each year. Such))~~ Application for the license shall be accompanied by a fee of one hundred twenty-five dollars and in addition ~~((thereto))~~ a fee of ten dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: **PROVIDED**, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide. Commercial pesticide applicator licenses shall expire on December 31st following their issuance.

Sec. 38. Section 8, chapter 249, Laws of 1961 as amended by section 4, chapter 177, Laws of 1967 and RCW 17.21.080 are each amended to read as follows:

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

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

(2) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or any other organized group of persons whether

incorporated or not, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation or group.

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

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

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

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

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

Sec. 39. Section 10, chapter 219, Laws of 1961 as last amended by section 28, chapter 45, Laws of 1987 and RCW 17.21.100 are each amended to read as follows:

(1) Except as provided in subsection (7) of this section, pesticide applicators licensed under the provisions of this chapter and all persons applying pesticides to more than one acre of agricultural land in a calendar year, including public entities engaged in roadside spraying of pesticides, 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))~~ (a) The location of the land where the pesticide was applied.

~~((3))~~ (b) The year, month, day and time the pesticide was applied.

~~((4))~~ The trade name and/or the common name) (c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide which was applied.

~~((5))~~ (d) The crop or site to which the pesticide was applied.

(e) The amount of pesticide applied per acre or other appropriate measure.

(f) The concentration of pesticide that was applied.

(g) The number of acres, or other appropriate measure, to which the pesticide was applied.

(h) The licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application.

(i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection ((does)) (i) shall not apply to applications of baits in bait stations and pesticide applications within structures.

~~((6))~~ (j) Any other reasonable information required by the director.

~~((7))~~ (2) Records shall be updated on the same day that a pesticide is applied.

(3) Such records shall be kept for a period of ((three)) seven 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.

(4) The pesticide records shall be readily available to: The department; treating medical personnel initiating diagnostic testing or therapy for a patient with a suspected case of pesticide poisoning; the department of social and health services; the pesticide incident reporting and tracking panel; and, in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, the employee or the employee's designated representative and the department of labor and industries.

(5) If a request for information is made under subsection (4) of this section from an applicator referred to in subsection (1) of this section and the applicator refuses to provide a copy of the records, the department shall be notified of the request and the applicator's refusal. Within seven working days, the department shall request that the applicator provide the department with all pertinent copies, except that in a medical emergency the request shall be made within two working days. The applicator shall provide copies of the records to the department within twenty-four hours after the department's request.

(6) The department of agriculture and the department of labor and industries shall jointly adopt, by rule, one form that satisfies the information requirements of this section and section 77 of this act. Records kept on the prescribed form under section 77 of this act may be used to comply with this section.

(7) This section shall not apply to the owner or operator of a dairy farm with respect to his or her application of pesticides to the farm.

Sec. 40. Section 11, chapter 249, Laws of 1961 as last amended by section 22, chapter 297, Laws of 1981 and RCW 17.21.110 are each amended to read as follows:

It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained ((an operator's)) a commercial pesticide operator license from the director. ((Such an operator's)) The commercial pesticide operator 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 the classifications the applicant is applying for and



~~whether the applicant intends to apply pesticides manually or to operate either a ground or aerial apparatus, or both, for the application of pesticides:))~~ Application for a license to apply pesticides manually and/or to operate ground apparatuses shall be accompanied by a license fee of ~~((twenty))~~ thirty dollars. Application for a license to operate an aerial apparatus shall be accompanied by a license fee of ~~((twenty))~~ thirty dollars. The provisions of this section shall not apply to any individual who ~~((has passed the examination provided for in RCW 17.21.090, and))~~ is a licensed commercial pesticide applicator. Commercial pesticide operator licenses shall expire on December 31st following their issuance.

Sec. 41. Section 6, chapter 92, Laws of 1979 and RCW 17.21.122 are each amended to read as follows:

It shall be unlawful for any person to act as a private-commercial applicator without having obtained a private-commercial applicator~~((s))~~ license from the director. ~~((Any person applying for such private-commercial applicator's license shall file an application on a form prescribed by the director. Such application shall state the classifications the applicant is applying for and the method in which these pesticides are to be applied:))~~ Application for a private-commercial applicator license ((to apply pesticides)) shall be accompanied by a license fee of ~~((twenty))~~ fifty dollars before a license may be issued. ~~((The))~~ Private-commercial applicator licenses issued by the director shall ((be valid until revoked or until the director determines that recertification is necessary)) expire on the fifth December 31st after the date of issuance.

Sec. 42. Section 8, chapter 92, Laws of 1979 and RCW 17.21.126 are each amended to read as follows:

It shall be unlawful for any person to act as a private applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides the private applicator is to be certified to use shall be relative to hazards according to RCW 17.21.030 as now or hereafter amended. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt by ~~((regulation))~~ rule these standards. ~~((A))~~ Application for private applicator certification shall be accompanied by a license fee of fifteen dollars before a certification may be issued. Private applicator certification issued by the director shall ((be valid until revoked or the director determines that a recertification is necessary)) expire on December 31st following issuance: PROVIDED, That private applicator certifications valid on July 1, 1989, shall expire on December 31, 1989. If the director does not qualify ((the)) a private applicator under this section, ((he)) the director shall inform the applicant in writing.

Sec. 43. Section 26, chapter 297, Laws of 1981 as amended by section 30, chapter 45, Laws of 1987 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))~~ fifty dollars shall be paid before a demonstration and research license may be issued. ~~((The director shall charge 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))~~ expire on the fifth December 31st after the date of issuance.

NEW SECTION. Sec. 44. A new section is added to chapter 17.21 RCW to read as follows:

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director. The application shall state the license or certification and the classification(s) the applicant is applying for and the method in which the pesticides are to be applied. Application for a license to apply pesticides shall be accompanied by the required fee. Renewal applications shall be filed on or before January 1st of the appropriate year.

NEW SECTION. Sec. 45. A new section is added to chapter 17.21 RCW to read as follows:

(1) The director shall not issue a commercial pesticide applicator 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. The director shall not issue a commercial pesticide operator, public operator, private commercial applicator, or demonstration and research applicator license until the applicant has passed an examination. Such examinations shall require the applicant to demonstrate to the director knowledge of:

(a) How to apply pesticides under the classification he or she has applied for, manually or with the various apparatuses that he or she may operate;

(b) The nature and effect of pesticides he or she may apply under such classifications; and

(c) Any other matter the director determines to be a necessary subject for examination.

(2) The director shall charge an examination fee 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.

(3) The director may prescribe separate testing procedures and requirements for each license.

Sec. 46. Section 13, chapter 249, Laws of 1961 as amended by section 10, chapter 203, Laws of 1986 and RCW 17.21.130 are each amended to read as follows:

Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause.

Sec. 47. Section 14, chapter 249, Laws of 1961 and RCW 17.21.140 are each amended to read as follows:

(1) If the application for renewal of any license provided for in this chapter is not filed on or prior to January 1st ((in any year)) following the expiration date of the license, a penalty of twenty-five ((percent)) dollars for the commercial pesticide applicator's license, and a penalty equivalent to the license fee for any other license, 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 or she has not acted as a ((pesticide applicator or operator)) licensee subsequent to the expiration of ((his)) the license.

(2) Any license for which a timely renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied.

Sec. 48. Section 15, chapter 249, Laws of 1961 as last amended by section 4, chapter 191, Laws of 1971 ex. sess. and RCW 17.21.150 are each amended to read as follows:

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

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

(2) Applied worthless or improper materials;

(3) Operated a faulty or unsafe apparatus;

- (4) Operated in a faulty, careless, or negligent manner;
- (5) Refused or neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the director;
- (6) Refused or neglected to keep and maintain the records required by ~~((this chapter))~~ rule, or to make reports when and as required;
- (7) Made false or fraudulent records, invoices, or reports;
- (8) Engaged in the business of applying a pesticide without having ~~((a licensed applicator or operator))~~ an appropriately licensed person in direct "on-the-job" supervision;
- (9) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus;
- (10) Used fraud or misrepresentation in making an application for a license or renewal of a license;
- (11) Is not qualified to perform the type of pest control under the conditions and in the locality in which he or she operates or has operated, regardless of whether or not he or she has previously passed ~~((an))~~ a pesticide license examination ~~((provided for in RCW 17.21.090 and 17.21.120))~~;
- (12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;
- (13) Knowingly made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or investigation; ~~((or))~~
- (14) Impersonated any state, county or city inspector or official; or
- (15) Used or supervised the use of a pesticide restricted to use by certified applicators without having a certified applicator in direct supervision.

Sec. 49. Section 16, chapter 249, Laws of 1961 as amended by section 9, chapter 177, Laws of 1967 and RCW 17.21.160 are each amended to read as follows:

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

Sec. 50. Section 18, chapter 249, Laws of 1961 as last amended by section 31, chapter 45, Laws of 1987 and RCW 17.21.180 are each amended to read as follows:

The ~~((applicator's))~~ commercial pesticide applicator 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 17.21.170.

Sec. 51. Section 19, chapter 249, Laws of 1961 and RCW 17.21.190 are each amended to read as follows:

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

- (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))~~ shall be filed within ~~((sixty))~~ thirty days from the time that the property loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report ~~((must))~~ shall be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the damage.

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 chapter. However, if the person failing to file such report is the only one ~~((injured))~~ suffering loss 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))~~ act upon the complaint.

Sec. 52. Section 20, chapter 249, Laws of 1961 as last amended by section 3, chapter 92, Laws of 1979 and RCW 17.21.200 are each amended to read as follows:

The provisions of this chapter relating to commercial pesticide applicator licenses and requirements for their issuance shall not apply to any forest

landowner, or his or her employees, applying pesticides with ground apparatus or manually, on his or her own lands or any lands or rights of way under his or her control or to any farmer owner of ground apparatus applying pesticides for himself or herself or other farmers on an occasional basis not amounting to a principal or regular occupation(~~(: PROVIDED, That such owner))~~ or to any grounds maintenance person conducting grounds maintenance on an occasional basis not amounting to a regular occupation. However, persons exempt under this section shall not use pesticides restricted to use by certified applicators and shall not advertise or publicly hold ((himself)) themselves out as ((α)) pesticide applicators.

Sec. 53. Section 22, chapter 249, Laws of 1961 as last amended by section 11, chapter 203, Laws of 1986 and RCW 17.21.220 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides(~~(: PROVIDED, That the operators applying any pesticide restricted to use by certified applicators or in charge of any apparatuses used by any state agencies, municipal corporations and public utilities or any governmental agencies shall be subject to the provisions of RCW 17.21.100, 17.21.110 and 17.21.120: PROVIDED FURTHER, That the director shall issue a limited public operator license without a fee to such operators which shall be valid only when such operators are acting as employees of a state agency, municipal corporation, public utility, or other government agency: AND PROVIDED FURTHER, That))~~).

· (2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any pesticide restricted to use by certified applicators, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. A license fee of fifteen dollars shall be paid before a public operator license may be issued. The license fee shall not apply to public operators licensed and working in the health vector field. Public operator licenses shall expire on December 31st following the date of issuance. The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides not restricted to use by certified applicators to control pests other than weeds. (~~Public operator licenses shall expire on the fifth December 31 from the date of issuance. All public operator licenses valid on December 31, 1985, shall expire on December 31, 1990.~~

~~(2))~~ (4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

Sec. 54. Section 23, chapter 249, Laws of 1961 as last amended by section 8, chapter 36, Laws of 1988 and RCW 17.21.230 are each amended to read as follows:

There is hereby created a pesticide advisory board consisting of three licensed pesticide applicators residing in the state (one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one shall be licensed for structural pest control), one licensed pest control consultant, one licensed pesticide dealer manager, one entomologist in public service, one toxicologist in public service, one ~~((plant pathologist in public service))~~ pesticide coordinator from Washington State University, one member from the agricultural chemical industry, one member from the food processing industry, one member representing agricultural labor, one health care practitioner in private practice, one member from the environmental community, 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 pesticide advisory board prior to the expiration of his or her term of appointment for cause. The pesticide advisory board shall also include the following nonvoting members: The director of the department of labor and industries or ((his)) a duly authorized representative, the environmental health specialist from the division of health of the department of social and health services, the supervisor of the ((grain and)) chemical division of the department, and the directors, or their appointed representatives, of the departments of wildlife, fisheries, natural resources, and ecology.

Sec. 55. Section 24, chapter 249, Laws of 1961 and RCW 17.21.240 are each amended to read as follows:

Upon the death, resignation or removal for cause of any member of the pesticide advisory 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.

Sec. 56. Section 25, chapter 249, Laws of 1961 and RCW 17.21.250 are each amended to read as follows:

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

Sec. 57. Section 26, chapter 249, Laws of 1961 and RCW 17.21.260 are each amended to read as follows:

The pesticide advisory 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.

Sec. 58. Section 27, chapter 249, Laws of 1961 as amended by section 24, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 17.21.270 are each amended to read as follows:

No person appointed to the pesticide advisory board shall receive a salary or other compensation as a member of the board: PROVIDED, That each member of the board shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day spent in actual attendance at or traveling to and from meetings of the board or special assignments for the board.

Sec. 59. Section 28, chapter 249, Laws of 1961 as last amended by section 183, chapter 202, Laws of 1987 and RCW 17.21.280 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid to the director for use exclusively in the enforcement of this chapter(~~(All moneys held by the director for the enforcement of chapter 17.20 RCW shall be retained by the director for the enforcement of this chapter)~~): PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Sec. 60. Section 29, chapter 249, Laws of 1961 as amended by section 15, chapter 177, Laws of 1967 and RCW 17.21.290 are each amended to read as follows:

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

Sec. 61. Section 3, chapter 158, Laws of 1985 and RCW 17.21.315 are each amended to read as follows:

Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than (~~(one)~~) seven thousand five hundred 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 section and may be subject to the civil penalty herein provided.



Sec. 62. Section 10, chapter 191, Laws of 1971 ex. sess. and RCW 17-.21.320 are each amended to read as follows:

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

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

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

(c) To inspect storage or disposal areas;

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

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

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

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

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

NEW SECTION. Sec. 63. A new section is added to chapter 17.21 RCW to read as follows:

(1) A person aggrieved by a violation of this chapter or the rules adopted under this chapter:

(a) May request an inspection of the area in which the violation is believed to have occurred. If there are reasonable grounds to believe that a violation has occurred, the department shall conduct an inspection as soon as practicable. However, the director may refuse to act on a request for inspection concerning only property loss or damage if the person suffering property damage fails to file a timely report of loss under RCW 17.21.190. If an inspection is conducted, the person requesting the inspection shall:

(i) Be promptly notified in writing of the department's decision concerning the assessment of any penalty pursuant to the inspection; and

(ii) Be entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to this chapter: **PROVIDED**, That in any appeal proceeding the identity of the aggrieved person who requests the inspection shall be disclosed to the alleged violator of the act upon request of the alleged violator;

(b) Shall be notified promptly, on written application to the director, of any penalty or other action taken by the department pursuant to an investigation of the violation under this chapter; and

(c) May request, within ten days from the service of a final order fixing a penalty for the violation, that the director reconsider the entire matter if it is alleged that the penalty is inappropriate. If the person is aggrieved by a decision of the director on reconsideration, the person may request an adjudicative proceeding under chapter 34.05 RCW. However, the procedures for a brief adjudicative proceeding may not be used unless agreed to by the person requesting the adjudicative proceeding. During the adjudicative proceeding under (c) of this subsection, the presiding officer shall consider the interests of the person requesting the adjudicative proceeding.

(2) Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation.

**NEW SECTION.** Sec. 64. A new section is added to chapter 17.21 RCW to read as follows:

By December 1, 1989, and each subsequent December 1, the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum: (1) A review of the department's pesticide incident investigation and enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed; and (2) a summary of the pesticide residue food monitoring program with information on the food samples tested and results of the tests, a listing of the pesticides for which no testing is done, and other pertinent information.

Sec. 65. Section 32, chapter 249, Laws of 1961 and RCW 17.21.910 are each amended to read as follows:

Unless revoked for cause by the director, any license issued under the provisions of this chapter ((17.20 RCW)) and in effect on ((the effective date of this act)) June 7, 1961, shall continue in full force and effect until its expiration date ((as if it had been issued under the requirements of RCW 17.21.090 and satisfied all requirements for obtaining such license, unless revoked prior thereto for cause by the director subsequent to a hearing:

The director shall prorate the cost of any license provided for in this chapter for the license period beginning with the \*\*effective date of this act and ending December 31, 1961)); PROVIDED, That public operator, private commercial applicator and demonstration and research applicator licenses in effect on December 31, 1985, shall expire on December 31, 1990, and any public operator, private commercial applicator and demonstration and research applicator licenses issued after December 31, 1985, and in effect on December 31, 1986, shall expire on December 31, 1991.

**NEW SECTION.** Sec. 66. A new section is added to chapter 17.21 RCW to read as follows:

Each registration and licensing fee under this chapter is increased by a surcharge of five dollars to be deposited in the agriculture—local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of social and health services' pesticide investigations, and the department of agriculture's pesticide investigations.

**NEW SECTION.** Sec. 67. A new section is added to chapter 70.104 RCW to read as follows:

The legislature finds that heightened concern regarding health and environmental impacts from pesticide use and misuse has resulted in an increased demand for full-scale health investigations, assessment of resource damages, and health effects information. Increased reporting, comprehensive unbiased investigation capability, and enhanced community education efforts are required to maintain this state's responsibilities to provide for public health and safety.

It is the intent of the legislature that the various state agencies responsible for pesticide regulation coordinate their activities in a timely manner to ensure adequate monitoring of pesticide use and protection of workers and the public from the effects of pesticide misuse.

**NEW SECTION.** Sec. 68. A new section is added to chapter 70.104 RCW to read as follows:

(1) There is hereby created a pesticide incident reporting and tracking review panel consisting of the following members:

(a) The directors, secretaries, or designees of the departments of labor and industries, agriculture, natural resources, wildlife, and ecology;

(b) The director of the department of social and health services or his or her designee, who shall serve as the coordinating agency for the review panel;

(c) The chair of the department of environmental health of the University of Washington, or his or her designee;

(d) The pesticide coordinator and specialist of the cooperative extension at Washington State University or his or her designee;

(e) A representative of the Washington poison control center network;

(f) A practicing toxicologist and a member of the general public, who shall each be appointed by the governor for terms of two years and may be appointed for a maximum of four terms at the discretion of the governor. The governor may remove either member prior to the expiration of his or her term of appointment for cause. Upon the death, resignation, or removal

for cause of a member of the review panel, the governor shall fill such vacancy, within thirty days of its creation, for the remainder of the term in the manner herein prescribed for appointment to the review panel.

(2) The review panel shall be chaired by the secretary of the department of social and health services, or designee. The members of the review panel shall meet at least monthly at a time and place specified by the chair, or at the call of a majority of the review panel.

**NEW SECTION.** Sec. 69. A new section is added to chapter 70.104 RCW to read as follows:

The responsibilities of the review panel shall include, but not be limited to:

(1) Establishing guidelines for centralizing the receipt of information relating to actual or alleged health and environmental incidents involving pesticides:

(2) Reviewing and making recommendations for procedures for investigation of pesticide incidents, which shall be implemented by the appropriate agency unless a written statement providing the reasons for not adopting the recommendations is provided to the review panel;

(3) Monitoring the time periods required for response to reports of pesticide incidents by the departments of agriculture, social and health services, and labor and industries;

(4) At the request of the chair or any panel member, reviewing pesticide incidents of unusual complexity or those that cannot be resolved;

(5) Identifying inadequacies in state and/or federal law that result in insufficient protection of public health and safety, with specific attention to advising the appropriate agencies on the adequacy of pesticide reentry intervals established by the federal environmental protection agency and registered pesticide labels to protect the health and safety of farmworkers. The panel shall establish a priority list for reviewing reentry intervals, which considers the following criteria:

(a) Whether the pesticide is being widely used in labor-intensive agriculture in Washington;

(b) Whether another state has established a reentry interval for the pesticide that is longer than the existing federal reentry interval;

(c) The toxicity category of the pesticide under federal law;

(d) Whether the pesticide has been identified by a federal or state agency or through a scientific review as presenting a risk of cancer, birth defects, genetic damage, neurological effects, blood disorders, sterility, menstrual dysfunction, organ damage, or other chronic or subchronic effects; and

(e) Whether reports or complaints of ill effects from the pesticide have been filed following worker entry into fields to which the pesticide has been applied; and

(6) Reviewing and approving an annual report prepared by the department of social and health services to the governor, agency heads, and members of the legislature, with the same available to the public. The report shall include, at a minimum:

- (a) A summary of the year's activities;
- (b) A synopsis of the cases reviewed;
- (c) A separate descriptive listing of each case in which adverse health or environmental effects due to pesticides were found to occur;
- (d) A tabulation of the data from each case;
- (e) An assessment of the effects of pesticide exposure in the workplace;
- (f) The identification of trends, issues, and needs; and
- (g) Any recommendations for improved pesticide use practices.

NEW SECTION. Sec. 70. A new section is added to chapter 70.104 RCW to read as follows:

Nothing in sections 67 through 69 of this act shall be construed to affect in any manner the administration of Title 51 RCW by the department of labor and industries.

Sec. 71. Section 3, chapter 41, Laws of 1971 ex. sess. and RCW 70.104.030 are each amended to read as follows:

(1) The department of social and health services shall investigate all suspected human cases of pesticide poisoning and such cases of suspected pesticide poisoning of animals that may relate to human illness. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the case or suspected case of pesticide poisoning.

In order to adequately investigate such cases, the department of social and health services shall have the power to:

(a) Take all necessary samples and human or animal tissue specimens for diagnostic purposes: PROVIDED, That tissue, if taken from a living human, shall be taken from a living human only with the consent of a person legally qualified to give such consent;

(b) Secure any and all such information as may be necessary to adequately determine the nature and causes of any case of pesticide poisoning.

(2) The state department of social and health services shall, by rule and regulation adopted pursuant to the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW, as it now exists or is hereafter amended, and, in any event, with due notice and a hearing for the adoption of permanent rules, establish procedures for the prevention of any recurrence of poisoning and the department shall immediately notify the department of agriculture, the department of labor and industries, and other appropriate agencies of the results of its investigation for such action as the ~~((department of agriculture or such))~~ other departments or agencies deem appropriate. The notification of such investigations and their results may include

recommendations for further action by the appropriate department or agency.

**NEW SECTION.** Sec. 72. A new section is added to chapter 70.104 RCW to read as follows:

(1) Any attending physician or other health care provider recognized as primarily responsible for the diagnosis and treatment of a patient or, in the absence of a primary health care provider, the health care provider initiating diagnostic testing or therapy for a patient shall report a case or suspected case of pesticide poisoning to the department of social and health services in the manner prescribed by, and within the reasonable time periods established by, rules of the state board of health. Time periods established by the board shall range from immediate reporting to reporting within seven days depending on the severity of the case or suspected case of pesticide poisoning. The reporting requirements shall be patterned after other board rules establishing requirements for reporting of diseases or conditions. Confidentiality requirements shall be the same as the confidentiality requirements established for other reportable diseases or conditions. The board rules shall determine what information shall be reported. Reports shall be made on forms provided to health care providers by the department of social and health services. For purposes of any oral reporting, the department of social and health services shall make available a toll-free telephone number.

(2) Within a reasonable time period as established by board rules, the department of social and health services shall investigate the report of a case or suspected case of pesticide poisoning to document the incident. The department shall report the results of the investigation to the health care provider submitting the original report.

(3) Cases or suspected cases of pesticide poisoning shall be reported by the department of social and health services to the pesticide reporting and tracking review panel within the time periods established by state board of health rules.

(4) Upon request of the primary health care provider, pesticide applicators or employers shall make available to that provider any available information on pesticide applications which may have affected the health of the provider's patient. This information is to be used only for the purposes of providing health care services to the patient.

(5) Any failure of the primary health care provider to make the reports required under this section may be cause for the department of social and health services to submit information about such nonreporting to the applicable disciplining authority for the provider under RCW 18.130.040.

(6) No cause of action shall arise as the result of: (a) The failure to report under this section; or (b) any report submitted to the department of social and health services under this section.

(7) For the purposes of this section, a suspected case of pesticide poisoning is a case in which the diagnosis is thought more likely than not to be pesticide poisoning.

**NEW SECTION.** Sec. 73. A new section is added to chapter 70.104 RCW to read as follows:

The department of social and health services, after seeking advice from the state board of health, local health officers, and state and local medical associations, shall develop a program of medical education to alert physicians and other health care providers to the symptoms, diagnosis, treatment, and reporting of pesticide poisonings.

**NEW SECTION.** Sec. 74. The following acts or parts of acts are each repealed:

(1) Section 19, chapter 190, Laws of 1971 ex. sess., section 28, chapter 182, Laws of 1982 and RCW 15.58.190;

(2) Section 45, chapter 190, Laws of 1971 ex. sess. and RCW 15.58-.930;

(3) Section 9, chapter 249, Laws of 1961, section 5, chapter 177, Laws of 1967, section 2, chapter 191, Laws of 1971 ex. sess., section 7, chapter 203, Laws of 1986, section 27, chapter 45, Laws of 1987 and RCW 17.21-.090;

(4) Section 12, chapter 249, Laws of 1961, section 7, chapter 177, Laws of 1967, section 8, chapter 203, Laws of 1986, section 29, chapter 45, Laws of 1987 and RCW 17.21.120; and

(5) Section 7, chapter 92, Laws of 1979 and RCW 17.21.124.

**NEW SECTION.** Sec. 75. Section 18, chapter 177, Laws of 1967, section 6, chapter 191, Laws of 1971 ex. sess., section 5, chapter 92, Laws of 1979 and RCW 17.21.205 are each repealed effective January 1, 1990.

**NEW SECTION.** Sec. 76. A new section is added to chapter 49.70 RCW to read as follows:

(1) If a pesticide having a reentry interval of greater than twenty-four hours is applied to a labor-intensive agricultural crop, the pesticide-treated area shall be posted with warning signs in accordance with the requirements of this section.

(2) When pesticide warning signs are required under this section, the employer shall post signs visible from all usual points of entry to the pesticide-treated area. If there are no usual points of entry or the area is adjacent to an unfenced public right of way, signs shall be posted (a) at each corner of the pesticide-treated area, and (b) at intervals not exceeding six hundred feet, or (c) at other locations approved by the department that provide maximum visibility.

(3) The signs shall be posted no sooner than twenty-four hours before the scheduled application of the pesticide, remain posted during application and throughout the applicable reentry interval, and be removed within two

days after the expiration of the applicable reentry interval and before employee reentry is permitted.

(4) Signs shall be legible for the duration of use. Signs shall contain a prominent symbol approved by the department of agriculture and the department of labor and industries by rule, and wording shall be in English and Spanish or other languages as required by the department. Signs shall meet the minimum specifications of rules adopted by the department, which rules shall include, at a minimum, size and lettering requirements.

**NEW SECTION.** Sec. 77. A new section is added to chapter 49.70 RCW to read as follows:

(1) An employer who applies or stores pesticides in connection with the production of an agricultural crop shall compile and maintain a workplace pesticide list by crop for each pesticide that is applied to a crop or stored in a work area. The workplace pesticide list shall be kept on a form prescribed by the department and shall contain at least the following information:

(a) The location of the land where the pesticide was applied or site where the pesticide was stored;

(b) The year, month, day, and time the pesticide was applied;

(c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that was applied or stored;

(d) The crop or site to which the pesticide was applied;

(e) The amount of pesticide applied per acre, or other appropriate measure;

(f) The concentration of pesticide that was applied;

(g) The number of acres, or other appropriate measure, to which pesticide was applied;

(h) If applicable, the licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application; and

(i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures.

(2) The employer shall update the workplace pesticide list on the same day that a pesticide is applied or is first stored in a work area.

(3) The workplace pesticide list may be prepared for the workplace as a whole or for each work area and must be readily available to employees and their designated representatives. New or newly assigned employees shall be made aware of the pesticide chemical list before working with pesticides or in a work area containing pesticides.

(4) An employer subject to this section shall maintain one form for each crop, work area, or workplace as a whole, as appropriate, and shall add information to the form as different pesticides are applied or stored. The



forms shall be accessible and available for copying and shall be stored in a location suitable to preserve their physical integrity. The employer shall maintain and preserve the forms required under this section for no less than seven years. The records shall include an estimation of the total amount of each pesticide listed on the forms.

(5) After the effective date of this section, if an employer has failed to maintain and preserve the forms as required, the employer shall be subject to any applicable penalties authorized under this chapter or chapter 49.17 RCW.

(6) If activities for which forms are maintained cease at a workplace, the forms shall be filed with the department. If an employer subject to this section is succeeded or replaced in that function by another person, the person who succeeds or replaces the employer shall retain the forms as required by this section but is not liable for violations committed by the former employer under this chapter or rules adopted under this chapter, including violations relating to the retention and preservation of forms.

(7) The employer shall provide copies of the forms, on request, to an employee or the employee's designated representative in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, treating medical personnel, the pesticide incident reporting and tracking review panel, or department representative. The designated representative or treating medical personnel are not required to identify the employee represented or treated. The department shall keep the name of any affected employee confidential in accordance with RCW 49.17.080(1). If an employee, a designated representative, treating medical personnel, or the pesticide incident reporting and tracking review panel requests a copy of a form and the employer refuses to provide a copy, the requester shall notify the department of the request and the employer's refusal. Within seven working days, the department shall request that the employer provide the department with all pertinent copies, except that in a medical emergency the request shall be made within two working days. The employer shall provide copies of the form to the department within twenty-four hours after the department's request.

(8) The department of labor and industries and the department of agriculture shall jointly adopt, by rule, one form that satisfies the information requirements of this section and RCW 17.21.100. Records kept by the employer on the prescribed form under RCW 17.21.100 may be used to comply with the workplace pesticide list information requirements under this section.

Sec. 78. Section 16, chapter 35, Laws of 1945 as last amended by section 2, chapter 292, Laws of 1977 ex. sess. and RCW 50.04.150 are each amended to read as follows:

Except as otherwise provided in RCW 50.04.155, the term "employment" shall not include service performed in agricultural labor ((except as

otherwise provided in RCW 50.04.155)) by individuals who are enrolled as students and regularly attending classes, or are between two successive academic years or terms, at an elementary school, a secondary school, or an institution of higher education as defined in RCW 50.44.037 and in the case of corporate farms not covered under RCW 50.04.155, the provisions regarding family employment in RCW 50.04.180 shall apply.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

Sec. 79. Section 5, chapter 205, Laws of 1984 as last amended by section 3, chapter 171, Laws of 1987 and RCW 50.29.025 are each amended to read as follows:

The contribution rate for each employer shall be determined under this section.

(1) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the June 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(2) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in subsection (5) of this section shall be in effect for assigning tax rates for the rate year. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
3.40 and above	A
2.90 to 3.39	B
2.40 to 2.89	C
1.90 to 2.39	D
1.40 to 1.89	E
Less than 1.40	F

(3) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (a) Identification number; (b) benefit ratio; (c) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (d) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (e) the percentage equivalent of the cumulative total of taxable payrolls.

(4) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in subsection (5) of this section: PROVIDED, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(5) The contribution rate for each employer in the array shall be the rate specified in the following table for the rate class to which he or she has been assigned, as determined under subsection (4) of this section, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls			Schedule of Contribution Rates for Effective Tax Schedule					
From	To	Rate Class	A	B	C	D	E	F
0.00	5.00	1	0.48	0.58	0.98	1.48	1.88	2.48
5.01	10.00	2	0.48	0.78	1.18	1.68	2.08	2.68
10.01	15.00	3	0.58	0.98	1.38	1.78	2.28	2.88
15.01	20.00	4	0.78	1.18	1.58	1.98	2.48	3.08
20.01	25.00	5	0.98	1.38	1.78	2.18	2.68	3.18
25.01	30.00	6	1.18	1.58	1.98	2.38	2.78	3.28
30.01	35.00	7	1.38	1.78	2.18	2.58	2.98	3.38
35.01	40.00	8	1.58	1.98	2.38	2.78	3.18	3.58
40.01	45.00	9	1.78	2.18	2.58	2.98	3.38	3.78

45.01	50.00	10	1.98	2.38	2.78	3.18	3.58	3.98
50.01	55.00	11	2.28	2.58	2.98	3.38	3.78	4.08
55.01	60.00	12	2.48	2.78	3.18	3.58	3.98	4.28
60.01	65.00	13	2.68	2.98	3.38	3.78	4.18	4.48
65.01	70.00	14	2.88	3.18	3.58	3.98	4.38	4.68
70.01	75.00	15	3.08	3.38	3.78	4.18	4.58	4.78
75.01	80.00	16	3.28	3.58	3.98	4.38	4.68	4.88
80.01	85.00	17	3.48	3.78	4.18	4.58	4.88	4.98
85.01	90.00	18	3.88	4.18	4.58	4.88	4.98	5.18
90.01	95.00	19	4.28	4.58	4.98	5.08	5.18	5.38
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40

(6) The contribution rate for each employer not qualified to be in the array shall be ~~((a rate equal to the average industry tax rate as determined by the commissioner, however, the rate may not be less than one percent; PROVIDED, That))~~ as follows:

(a) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned the contribution rate of five and four-tenths percent;

(b) The contribution rate for employers exempt as of December 31, 1989, who are newly covered under the section 78, chapter . . . , Laws of 1989, (section 78 of this act) amendment to RCW 50.04.150 and not yet qualified to be in the array shall be 2.5 percent for employers whose standard industrial code is "016", "017", "018", "021", or "081"; and

(c) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the Standard Industrial Classification code.

Sec. 80. Section 78, chapter 35, Laws of 1945 as last amended by section 6, chapter 33, Laws of 1977 ex. sess. and RCW 50.20.100 are each amended to read as follows:

Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform, and for individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets the conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

Sec. 81. Section 6, chapter 205, Laws of 1984 and RCW 50.29.062 are each amended to read as follows:

Predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer at the time of the transfer, his or her contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs. From and after January 1 following the transfer, the successor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits including the experience of the acquired business or portion of a business from the date of transfer, as of the regular computation date for that rate year.

(2) If the successor is not an employer at the time of the transfer, he or she shall pay contributions at the rate class assigned to the predecessor employer at the time of the transfer for the remainder for that rate year and continuing until such time as he or she qualifies for a different rate in his or her own right.

(3) If the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, his or her rate from the date the transfer occurred until the end of that rate year and until he or she qualifies in his or her own right for a new rate, shall be the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition.

(4) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(5) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits as of the regular computation date for that rate year including the experience of the acquired business or portion of business up to the date of transfer: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until he or she satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

NEW SECTION. Sec. 82. (1) It is the intent of the legislature that the department assist agricultural employers in mitigating the costs of the state's unemployment insurance program. The department shall work with

members of the agricultural community to: Improve understanding of the program's operation; increase compliance with work-search requirements; provide prompt notification of potential claims against an employer's experience rating; inform employers of their rights; inform employers of the actions necessary to appeal a claim and to protect their rights; and reduce claimant and employer fraud. These efforts shall include:

- (a) Conducting employer workshops and community seminars;
- (b) Developing new educational materials; and
- (c) Developing forms that use lay language.

(2) The employment security department, the department of labor and industries, the department of licensing, and the department of revenue shall develop a plan to implement voluntary combined reporting for agricultural employers by January 1, 1991. The departments shall submit the plan to the legislature by January 10, 1990, and include recommendations for legislation necessary to standardize and simplify statutory coverage and other requirements. Such standardization shall be as consistent with federal requirements as possible.

The departments shall consult with representatives of agricultural employer and labor associations and general business associations in the development of the plan and legislation. The departments shall ensure that they accommodate the needs of small agricultural employers in particular.

(3) The department shall report to the appropriate standing committees of the legislature by January 10, 1990, 1991, and 1992 and include a description of the activities of the department to carry out the intents of this section and provide quantitative data where possible on the effectiveness of the activities undertaken by the department to comply with the intents of this section during the previous calendar year.

**NEW SECTION.** Sec. 83. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural employment" or "employment" means employment in agricultural labor as defined in RCW 50.04.150.

(2) "Department" means the department of labor and industries.

(3) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

(4) "Employee" means a person employed in agricultural employment, and includes a person who is working under an independent contract the essence of which is personal labor in agricultural employment whether by way of manual labor or otherwise. However, "employee" shall not include immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity, or officers of any closely held corporation engaged in agricultural production of crops or livestock.

(5) "Minor" means an employee who is under the age of eighteen years.

**NEW SECTION.** Sec. 84. (1) Each employer required to keep employment records under RCW 49.46.070, shall retain such records for three years.

(2) Each employer shall furnish to each employee at the time the employee's wages are paid an itemized statement showing the pay basis in hours or days worked, the rate or rates of pay, the gross pay, and all deductions from the pay for the respective pay period.

**NEW SECTION.** Sec. 85. The department shall establish an advisory committee on agricultural labor to develop recommendations for rules to provide labor standards for agricultural employment of minors. The advisory committee shall be composed of: A representative of the department of labor and industries; a representative of the department of agriculture; representatives of the agricultural employer and employee communities; and one legislator from each caucus of the house of representatives and the senate, to be appointed by the speaker of the house of representatives and president of the senate, respectively.

Based upon the recommendations of the advisory committee and considerations as to the nature of agricultural employment and usual crop cultural and harvest requirements, the director shall adopt rules under chapter 34.05 RCW which only address the following:

(1) The employment of minors, providing for annual notification to the department of intent to hire minors, and including provisions that both encourage school attendance and provide flexible hours that will meet the requirements of agricultural employment; and

(2) The provision of rest and meal periods for agricultural employees, taking into account naturally occurring work breaks where possible. The initial rules shall be adopted no later than July 1, 1990.

**NEW SECTION.** Sec. 86. Any violation of the provisions of this chapter or rules adopted hereunder shall be a class I civil infraction. The director shall have the authority to issue and enforce civil infractions according to chapter 7.80 RCW.

**NEW SECTION.** Sec. 87. Sections 83 through 86 of this act shall constitute a new chapter in Title 49 RCW.

**NEW SECTION.** Sec. 88. 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. 89. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder

of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 90. Sections 69 and 71 through 73 of this act shall take effect on January 1, 1990.

NEW SECTION. Sec. 91. Sections 78 through 81 of this act shall take effect on January 1, 1990.

NEW SECTION. Sec. 92. Section 76 of this act shall take effect on July 1, 1990.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

---

## CHAPTER 381

[Substitute House Bill No. 1133]

### CHILD CARE FACILITIES DEVELOPMENT—EMPLOYER INVOLVEMENT

AN ACT Relating to encouraging employer involvement in child care facilities development and services; amending RCW 74.13.085 and 74.13.090; adding new sections to chapter 74.13 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the increasing difficulty of balancing work life and family needs for parents in the workforce has made the availability of quality, affordable child care a critical concern for the state and its citizens. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the workforce to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state and its businesses.

The legislature further finds that making information on child care options available to businesses can help the market for child care adjust to the needs of businesses and working families. The legislature further finds that investments are necessary to promote partnerships between the public and private sectors, educational institutions, and local governments to increase the supply, affordability, and quality of child care in the state.

Sec. 2. Section 1, chapter 213, Laws of 1988 and RCW 74.13.085 are each amended to read as follows:

It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. However, ~~((to the extent child care services are used;))~~ there has been a dramatic increase in participation