

Enrolled House Bill 2999

Sponsored by Representatives CLEM, C EDWARDS; Representatives BAILEY, BARNHART, BOONE, BUCKLEY, CANNON, D EDWARDS, GREENLICK, HARKER, KOMP, KRIEGER, NOLAN, READ, RILEY, J SMITH, TOMEI

CHAPTER

AN ACT

Relating to the pesticide use reporting system; creating new provisions; amending sections 4, 8, 19 and 22, chapter 1059, Oregon Laws 1999; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 4, chapter 1059, Oregon Laws 1999, as amended by section 1, chapter 743, Oregon Laws 2005, is amended to read:

Sec. 4. (1) As used in this section, “fourth-level hydrologic unit” means the cataloging unit level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.

(2) The State Department of Agriculture shall establish and implement a pesticide use reporting system to meet the need described in section 3, chapter 1059, Oregon Laws 1999. In establishing and implementing the system, the department shall:

[(1)] (a) Design, develop and implement the system in order to collect, evaluate, summarize, retain and report information on the use of pesticides in each major category of use in Oregon, including agriculture, forestry, industrial, urban commercial and urban homeowner uses.

[(2)] (b) At least one time each year, collect the best data practicable from each major category of pesticide use in a manner that reduces paperwork and reporting costs.

[(3)] (c) Require all pesticide users to report basic information on their use of pesticides that includes:

[(a)] (A) The location of use[.], **identified as follows:**

(i) For pesticide use within an urban area, as defined by the department by rule, the pesticide user shall report the location of use by identifying the five-digit zip code for the location.

(ii) For pesticide use that is not within an urban area, the pesticide user shall report the location of use by identifying the *[third-level]* **fourth-level** hydrologic unit for the location. *[As used in this paragraph, “third-level hydrologic unit” means the basin reporting level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.]*

(iii) To the extent authorized by the department by rule, notwithstanding any other provision of this subparagraph, for pesticide use on a utility or transportation right of way, the pesticide user may report the location of use by identifying the fourth-level hydrologic unit for the location or by identifying the right of way name and the beginning point and ending point global positioning system coordinates or milepost numbers. If the department receives a pesticide use report for which the location is identified by right of way information, the department shall determine the fourth-level hydrologic unit in which the right of way be-

ginning point is located and shall use that fourth-level hydrologic unit for purposes of the annual report described in section 8, chapter 1059, Oregon Laws 1999.

[(b)] **(B)** The name and United States Environmental Protection Agency registration number for the pesticide product used.

[(c)] **(C)** The quantity of pesticide product applied.

[(d)] **(D)** The purpose of and type of site of the application.

[(e)] **(E)** The month of the application.

[(f)] **(F)** Subject to section 8, chapter 1059, Oregon Laws 1999, other data gathered by pesticide applicators that the department considers necessary to achieve the purposes of section 3, chapter 1059, Oregon Laws 1999.

[(4)] **(d)** Develop a mechanism to ensure the accuracy, reliability and validity of the database by providing for an independent review of the pesticide use data and collection procedures by data quality assurance specialists.

[(5)] **(e)** Develop a specific mechanism to identify household and other urban uses of pesticides. If this mechanism involves sales reporting by retail pesticide dealers, the department shall develop a minimum monthly sales quantity below which the retail pesticide dealer is exempt from reporting.

SECTION 2. Section 8, chapter 1059, Oregon Laws 1999, as amended by section 2, chapter 915, Oregon Laws 2001, and section 2, chapter 743, Oregon Laws 2005, is amended to read:

Sec. 8. (1) In implementing the pesticide use reporting system, the State Department of Agriculture shall, at a minimum:

(a) Publish an annual report summarizing the pesticide use data reported to the department under section 4, chapter 1059, Oregon Laws 1999. The report shall include:

(A) An analysis of trends in pesticide use;

(B) An assessment of pesticide use reporting data accuracy; and

(C) Pesticide use information summarized by zip code or **fourth-level** hydrologic unit as described in section 4 [(3)(a)] **(2)(c)**, chapter 1059, Oregon Laws 1999.

(b) Establish policy and adopt rules relating to the public release of data about pesticide sales or use consistent with the limitations provided in this section.

(2)(a) Data about pesticide use obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide:

(A) For a private agricultural or forestry operation; or

(B) On private property or public property leased to a private person.

(b) Data about pesticide sales obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal a trade secret, as defined in ORS 646.461, of the retail outlet, multiple-outlet retailer or associated group of retailers that reports the data.

(c) The department may not collect pesticide use data under section 4, chapter 1059, Oregon Laws 1999, that would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide, **other than pesticide location of use reported by reference to a right of way.**

(3) The policy and rules that the department adopts under this section may not limit access to data for the following purposes:

(a) Information obtained as part of any investigation under any other provision of law;

(b) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to any other local, state or federal agency, if the local, state or federal agency has agreed to maintain the confidentiality of any information that is required to be treated as confidential under this section, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; and

(c) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to a health or environmental researcher acting in an official capacity from an accredited university or accepted research institute who agrees to maintain the confidentiality of any information that is required to be treated as confidential under this section.

SECTION 3. Section 19, chapter 1059, Oregon Laws 1999, is amended to read:

Sec. 19. The amendments to ORS [192.502,] 634.306 and 634.372 by sections [16,] 17 and 18, [of this 1999 Act] **chapter 1059, Oregon Laws 1999**, become operative on [December 31, 2009] **June 30, 2019.**

SECTION 4. Section 22, chapter 1059, Oregon Laws 1999, is amended to read:

Sec. 22. Sections 2 to 4, 6 to 11, 15 and 21, [of this 1999 Act] **chapter 1059, Oregon Laws 1999**, are repealed on [December 31, 2009] **June 30, 2019.**

SECTION 5. Notwithstanding sections 4, 8 and 15, chapter 1059, Oregon Laws 1999, ORS 561.150, any requirement for the reporting of pesticide sales, distribution or use established by the State Department of Agriculture under ORS 634.306 or any prohibition expressed in ORS 634.372:

(1) The department may not expend moneys or department resources during the period beginning October 1, 2009, and ending June 30, 2011, for the purpose of operating or maintaining a pesticide use reporting system.

(2) A pesticide user, as defined in section 2, chapter 1059, Oregon Laws 1999, is not required to report any basic information regarding pesticide use that occurs during the period beginning July 1, 2009, and ending June 30, 2011.

(3) The department may not collect, evaluate, summarize or report data for pesticide sales, distribution or use that occurs during the period beginning July 1, 2009, and ending June 30, 2011.

SECTION 6. (1) The amendments to section 4, chapter 1059, Oregon Laws 1999, by section 1 of this 2009 Act apply to the reporting of information on pesticide use that occurs on or after January 1, 2013.

(2) The amendments to section 8, chapter 1059, Oregon Laws 1999, by section 2 of this 2009 Act become operative January 1, 2013.

SECTION 7. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 6, 2009

Received by Governor:

Repassed by House June 4, 2009

.....M.,....., 2009

Approved:

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Chief Clerk of House

.....M.,....., 2009

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Speaker of House

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Governor

Passed by Senate June 2, 2009

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2009

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Secretary of State