

Senate Bill 800

Sponsored by Senator BATES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Eliminates sunset for pesticide use reporting system.
Reduces size of identifying hydrologic unit to be used when reporting pesticide use.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the pesticide use reporting system; creating new provisions; amending ORS 634.306 and
3 634.372 and section 4, chapter 1059, Oregon Laws 1999; repealing sections 19 and 22, chapter
4 1059, Oregon Laws 1999; and declaring an emergency.

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

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

8 **Sec. 4.** The State Department of Agriculture shall establish and implement a pesticide use re-
9 porting system to meet the need described in section 3, chapter 1059, Oregon Laws 1999. In estab-
10 lishing and implementing the system, the department shall:

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

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

16 (3) Require all pesticide users to report basic information on their use of pesticides that in-
17 cludes:

18 (a) The location of use. For pesticide use within an urban area, as defined by the department
19 by rule, the pesticide user shall report the location of use by identifying the five-digit zip code for
20 the location. For pesticide use that is not within an urban area, the pesticide user shall report the
21 location of use by identifying the *[third-level]* **fourth-level** hydrologic unit for the location. As used
22 in this paragraph, "*[third-level]* **fourth-level** hydrologic unit" means the *[basin reporting]* **cataloging**
23 **unit** level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data
24 Committee.

25 (b) The name and United States Environmental Protection Agency registration number for the
26 pesticide product used.

27 (c) The quantity of pesticide product applied.

28 (d) The purpose of and type of site of the application.

29 (e) The month of the application.

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 1059, Oregon Laws 1999.

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

5 (5) Develop a specific mechanism to identify household and other urban uses of pesticides. If this
6 mechanism involves sales reporting by retail pesticide dealers, the department shall develop a min-
7 imum monthly sales quantity below which the retail pesticide dealer is exempt from reporting.

8 **SECTION 2.** ORS 634.306, as amended by section 17, chapter 1059, Oregon Laws 1999, is
9 amended to read:

10 634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agri-
11 culture is authorized to promulgate regulations necessary to carry out the purposes and intent of
12 this chapter, including but not limited to the following:

13 (1) Establish and maintain a program required for a person to work or engage in the application
14 or spraying of pesticides as a pesticide trainee. In this regard, the department may take into con-
15 sideration:

16 (a) Requirements for submission of applications by pesticide trainees.

17 (b) Minimum and maximum periods of work or experience required for pesticide trainees.

18 (c) Work performance records or reports to be maintained by pesticide trainees or their em-
19 ployers.

20 (d) Acceptance of educational qualifications, applicable work or experience in similar or other
21 fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.

22 (e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing
23 trainees to apply pesticides in all or part of the classes of operations or businesses set forth in
24 subsection (2) of this section.

25 (f) Laws and requirements relating to other professional, trade or industry trainee or appren-
26 ticeship programs in this or other states.

27 (g) Special requirements if the pesticide trainee is to apply pesticides by the use of aircraft, and
28 the advisability of allowing participation in federal flight training programs to be substituted, all
29 or in part, for training requirements under this chapter.

30 (2) Establish and maintain classifications of the various pesticides and of the various pest con-
31 trol or pesticide application businesses in order to facilitate the licensing or certification and regu-
32 lation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard
33 the department may take into consideration:

34 (a) Various types, formulations and characteristics of pesticides used and their purposes.

35 (b) Various methods of application of such pesticides.

36 (c) Precautions required for safe and effective application of such pesticides.

37 (3) Designate pesticides authorized to be used or applied, or prohibited from use or application,
38 by persons in order to qualify for an exemption under ORS 634.106.

39 (4) Establish and maintain classifications of pesticides and devices which are deemed to be
40 highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into
41 consideration:

42 (a) Laws and regulations of the federal government, including the provisions of the Federal
43 Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide
44 Control Act.

45 (b) Laws and regulations of other states.

1 (c) Advice and counsel of experts in pesticides from industry, universities and colleges and other
2 governmental agencies or bodies.

3 (5) Establish and maintain types of pesticide consultant or applicator examinations and reex-
4 aminations, schedules for required reexaminations and other measures deemed necessary for fair and
5 reasonable testing of applicants as provided in ORS 634.122 (5).

6 (6) Designate the conditions under which pesticide operators spraying by aircraft may reduce,
7 suspend or terminate the liability insurance required by ORS 634.116, and the periods of time
8 therefor. In this regard, the department may take into consideration:

9 (a) Changes in climate or seasons.

10 (b) Periods when certain crops are or have been harvested.

11 (c) Restricted or limited use of various types or classes of pesticides.

12 (d) Possibilities of injury or death to persons and loss or damage to real or personal property.

13 (7) Establish the conditions and amounts allowed for deductible classes in the liability insurance
14 required by ORS 634.116.

15 (8) Establish and maintain programs of instruction or educational courses for pesticide consult-
16 ants, operators, applicators and private applicators in cooperation with Oregon State University or
17 others, wherein, as far as is practicable, provisions are made so as to allow such pesticide operators
18 and applicators to participate only in the instruction or courses directly or indirectly related to
19 their particular activities. Attendance of licensees may be required.

20 (9) Prepare and distribute a manual, or other form of publication, containing information helpful
21 and beneficial to persons engaged in pesticide application or use or to persons preparing to qualify
22 for licensing as a pesticide operator, consultants or applicator and establish charges therefor.

23 (10) Establish, from time to time, advisory groups or committees to assist the department in
24 formulation of policies, plans or regulations under this chapter. Each member of any such group or
25 committee so established shall be entitled to compensation and expenses as provided in ORS 292.495,
26 which shall be charged to the department.

27 (11) Establish registration fees for pesticide brands and formulae or formulations thereunder.

28 (12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, ap-
29 plied or added to fertilizers, seed or grains.

30 (13) Establish restrictions, methods and procedures in the storage, transportation, use or appli-
31 cation of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating
32 insects, bees, animals, crops, wildlife, land or environment.

33 (14) Establish and maintain a system for certification of private applicators. In this regard, the
34 department shall take into consideration:

35 (a) Laws and regulations of the federal government, including the provisions of the Federal En-
36 vironmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and
37 Rodenticide Act, 7 U.S.C. 135 et seq., as amended thereby, and regulations thereunder.

38 (b) Minimum periods of experience required and types of experience, education or work accept-
39 able.

40 (c) Forms and types of private applicator certificates to be issued by the department, authorizing
41 private applicators to apply pesticides in all or part of the classifications of pesticides set forth in
42 subsection (4) of this section.

43 **(15) Establish requirements for the reporting of pesticide sales, distribution or use by any**
44 **person.**

45 **SECTION 3.** ORS 634.372, as amended by section 18, chapter 1059, Oregon Laws 1999, and

1 section 4, chapter 307, Oregon Laws 2001, is amended to read:

2 634.372. A person may not:

3 (1) Make false or misleading claims through any media, relating to the effect of pesticides or
4 application methods to be utilized.

5 (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless
6 pesticide or any pesticide inconsistent with its labeling, or as a pesticide consultant or dealer, re-
7 commend or distribute such pesticides.

8 (3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device or
9 equipment.

10 (4) Perform pesticide application activities in a faulty, careless or negligent manner.

11 (5) Refuse or neglect to prepare and maintain records required to be kept by the provisions of
12 this chapter.

13 (6) Make false, misleading or fraudulent records, reports or application forms required by the
14 provisions of this chapter.

15 (7) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesti-
16 cide applicator or certified private applicator performing the actual application, or supervising such
17 application if such is performed by a pesticide trainee. This prohibition does not apply to the oper-
18 ation of tractors, trucks or other vehicular equipment used only under the supervision of a certified
19 private applicator.

20 (8) As a pesticide applicator, work or engage in the application of any classes of pesticides
21 without first obtaining and maintaining a pesticide applicator's license, or apply pesticides that are
22 not specifically authorized by such license.

23 (9) As a pesticide operator, engage in the business of, or represent or advertise as being in the
24 business of, applying pesticides upon the land or property of another, without first obtaining and
25 maintaining a pesticide operator's license. The operator also may not engage in a class of pesticide
26 application business that is not specifically authorized by license issued by the State Department
27 of Agriculture. The operator also may not employ or use any person to apply or spray pesticides
28 who is not a licensed pesticide applicator or pesticide trainee.

29 (10) As a pesticide trainee, work or engage in the application of any class of pesticides without
30 first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with
31 the provisions of this chapter.

32 (11) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining and
33 maintaining a pesticide dealer's license.

34 (12) Act as, or purport to be, a pesticide consultant without first obtaining and maintaining a
35 pesticide consultant's license.

36 (13) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural,
37 horticultural or forest crops on land owned or leased by the person without first obtaining and
38 maintaining a private applicator certificate.

39 (14) As a person described in ORS 634.106 (5), use power-driven pesticide application equipment
40 or devices (use hand or backpack types only), or use or apply any pesticide other than those pre-
41 scribed by the department.

42 (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

43 (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.

44 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been regis-
45 tered as required by ORS 634.016.

1 (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
2 arsenic or any highly toxic fluoride that is not distinctly colored.

3 (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbro-
4 ken package.

5 (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted
6 area without first obtaining a permit for such application from the committee of the protected or
7 restricted area in which the application is to be made. The person also may not make such appli-
8 cation contrary to the conditions or terms of the permit so issued.

9 (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to
10 plant damage as determined by the department, without first obtaining a permit for such use as
11 provided in ORS 634.322 (10).

12 (22) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order
13 until the pesticide or device has been released therefrom as provided in ORS 634.322 (3).

14 **(23) Fail to comply with any provision or requirement of sections 2 to 9, chapter 1059,**
15 **Oregon Laws 1999, or rules adopted thereunder.**

16 **SECTION 4. The amendments to section 4, chapter 1059, Oregon Laws 1999, by section 1**
17 **of this 2009 Act apply to reporting information for pesticide use that occurs on or after**
18 **January 1, 2010.**

19 **SECTION 5. Sections 19 and 22, chapter 1059, Oregon Laws 1999, are repealed.**

20 **SECTION 6. This 2009 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
22 **on its passage.**

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