

Senate Bill 902

Sponsored by COMMITTEE ON EDUCATION AND GENERAL GOVERNMENT

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**.

Requires person exercising control over property located within one-quarter mile of school registered on State Department of Agriculture website to provide school with written notice prior to aerial spraying of pesticide. Modifies notice requirement if spraying is due to pest emergency. Applies to aerial applications of pesticide made on or after July 1, 2010. Makes violation of statute or department rules subject to civil penalty, not to exceed \$1,000 for first violation, \$2,000 for subsequent violation or \$10,000 for willful misconduct or subject to criminal penalty of not more than one year's imprisonment and fine not to exceed \$1,000 for first violation or \$2,000 for subsequent violation. Requires department to create website for registration of schools wishing to receive pesticide spraying notice.

A BILL FOR AN ACT

1 Relating to the application of pesticides near schools.

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

3 **SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS**
4 **chapter 634.**

5 **SECTION 2. (1) As used in this section and section 3 of this 2009 Act:**

6 **(a) "Aerial application" means an outdoor application:**

7 **(A) From an airplane or helicopter; or**

8 **(B) By means of a machine-powered device from any discharge height that is more than**
9 **10 feet above the top of the highest target vegetation on a property.**

10 **(b) "Pest emergency" means an urgent need to eliminate or mitigate a pest situation that**
11 **threatens human health or safety.**

12 **(c) "Registration number" means the pesticide registration number assigned by the**
13 **United States Environmental Protection Agency.**

14 **(d) "School" means:**

15 **(A) A facility operating an Oregon prekindergarten or a federal Head Start program;**

16 **(B) A public or private educational institution offering education in all or part of**
17 **kindergarten through grade 12;**

18 **(C) An education service district as defined in ORS 334.003;**

19 **(D) A community college as defined in ORS 341.005;**

20 **(E) The Oregon School for the Blind;**

21 **(F) The Oregon School for the Deaf; or**

22 **(G) A regional residential academy operated by the Oregon Youth Authority.**

23 **(2) Except as provided in this subsection, if a school is registered on the State Depart-**
24 **ment of Agriculture website described in section 3 of this 2009 Act, a person exercising con-**
25 **trol over real property located within one-quarter mile of the school may not allow an aerial**
26 **application of pesticides on the property unless the person provides the school with written**
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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 notice before making the application. The written notice must be given in a manner reason-
2 ably calculated to be received by the school administrator or the administrator's designee
3 at least 48 hours before the time proposed for the application. If a pest emergency makes it
4 impracticable to give a written notice in time for receipt by the school administrator or
5 designee at least 48 hours before the aerial application occurs, the person shall give the
6 written notice as soon as practicable and shall also provide a written explanation of why
7 earlier notice could not be provided.

8 (3) A written notice given under subsection (2) of this section must identify the name,
9 trademark or type of pesticide products, the registration number assigned to each of the
10 pesticide products, the expected area of application and the expected date and time of the
11 application. If there is a change to information that was provided in the written notice, the
12 person shall contact the school administrator or designee and provide corrected information
13 as soon as practicable.

14 **SECTION 3.** (1) The State Department of Agriculture shall establish and maintain a
15 website on which a school may register to receive information regarding proposed aerial ap-
16 plications of pesticide on real properties located within one-quarter mile of the school. The
17 department shall design the website to allow a person entering an address or tax lot for a
18 property to readily identify schools that are registered on the website and located within
19 one-quarter mile of the address or tax lot.

20 (2) The department may adopt all rules the department considers reasonable and neces-
21 sary for the administration and enforcement of this section and section 2 of this 2009 Act.

22 (3) The provisions of section 2 of this 2009 Act and rules adopted under this section do
23 not create a cause of action, and may not be asserted as the basis for a per se negligence
24 claim.

25 **SECTION 4.** (1) The State Department of Agriculture shall establish the website de-
26 scribed in section 3 of this 2009 Act no later than June 15, 2010.

27 (2) Section 2 of this 2009 Act applies to aerial application of pesticides made on or after
28 July 1, 2010.

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