

House Bill 3364

Sponsored by Representative KENY-GUYER, Senator MONNES ANDERSON; Representatives BARNHART, GREENLICK, HOLVEY, LIVELY, Senators BURDICK, STEINER HAYWARD

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**.

Amends list of state agencies and public universities required to adopt integrated pest management practices. Establishes Interagency Integrated Pest Management Coordinating Committee consisting of state agencies and public universities required to implement integrated pest management practices and of two public members. Requires committee to adopt definitions and policies and to create model integrated pest management plan based on definitions and policies. Makes definitions and policies adopted by committee mandatory for integrated pest management plans of state agencies and public universities required to implement pest management practices. Establishes requirements for integrated pest management plan coordinators, giving of notice regarding pesticide applications and keeping of pesticide application records. Requires state agencies and public universities to report to committee biennially regarding integrated pest management plan activities. Requires committee to report every four years to legislative committee dealing with environmental issues.

A BILL FOR AN ACT

1
2 Relating to integrated pest management; creating new provisions; and amending ORS 452.010,
3 634.122, 634.650, 634.660 and 634.665.

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

5 **SECTION 1. Sections 2 to 6 of this 2013 Act are added to and made a part of ORS 634.650**
6 **to 634.665.**

7 **SECTION 2. (1) There is established the Interagency Integrated Pest Management Coor-**
8 **dinating Committee. The committee membership shall be composed of:**

9 (a) **The integrated pest management coordinators for each state agency and public uni-**
10 **versity listed under ORS 634.660;**

11 (b) **A public member appointed by the Governor and having expertise in environmental**
12 **health protection; and**

13 (c) **A public member appointed by the Governor and having experience as an environ-**
14 **mental justice advocate.**

15 (2) **The integrated pest management coordinator for Oregon State University shall act**
16 **as administrator for the committee. The College of Agricultural Sciences at Oregon State**
17 **University shall provide staff support services for the committee. The committee shall meet**
18 **twice yearly in meetings conducted by the committee administrator.**

19 (3) **The committee may accept any gifts, grants or other moneys from public or private**
20 **sources for any purpose consistent with the duties, functions and powers of the committee**
21 **and the laws administered by the committee. Any moneys received by the committee shall**
22 **be placed in a separate account of the Oregon University System Fund and dedicated to use**
23 **as determined by the committee administrator for the carrying out of committee functions**
24 **under ORS 634.650 to 634.665.**

25 **SECTION 3. (1) The Interagency Integrated Pest Management Coordinating Committee**

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 shall develop integrated pest management plan definitions and policies that reflect the best
 2 available evidence regarding the achievement of effective pest control using least-toxic
 3 methodologies. The committee may periodically update the definitions and policies to reflect
 4 changes in the best available evidence. The committee shall use the definitions and policies
 5 to create a suggested model for the integrated pest management plans of the state agencies
 6 and public universities listed under ORS 634.660. The committee shall design the definitions
 7 and policies to improve the effectiveness and efficiency of integrated pest management plans
 8 by:

9 (a) Coordinating the pest management efforts of state agencies and public universities;

10 (b) Coordinating suppression and prevention efforts under integrated pest management
 11 plans with efforts conducted under other mandatory or voluntary programs and strategies
 12 for the reduction of toxicity in the environment or for health protection;

13 (c) Setting goals for reducing reliance on pesticides in favor of less toxic alternatives;

14 (d) Discouraging the purchase or storage of highly toxic pesticides; and

15 (e) Encouraging consistency and uniformity among state agency and public university
 16 integrated pest management plans and recommending legislative changes to reduce the
 17 presence of toxic pesticides in the environment.

18 (2) The model definitions and policies adopted by the committee shall be mandatory for
 19 all state agencies and public universities listed under ORS 634.660. The state agencies and
 20 public universities shall use the definitions and policies adopted by the committee to develop
 21 and implement integrated pest management plans that are designed to:

22 (a) Protect staff and public users of state agency property or staff, faculty, students and
 23 public users of public university campuses by reducing the presence and toxicity of pesti-
 24 cides;

25 (b) Minimize or eliminate environmental impacts and adverse health impacts on children,
 26 pregnant women, other individuals and communities from pesticide exposure and accumu-
 27 lation;

28 (c) Safeguard air and water quality, land, wildlife and other natural resources; and

29 (d) Reduce or, if possible, eliminate hazardous chemicals and toxic materials in oper-
 30 ations and maintenance.

31 (3) In carrying out its duties under subsection (1) of this section, the committee may
 32 coordinate efforts with or consult or cooperate with any other governmental or private en-
 33 tities engaged in efforts designed to reduce the presence of pesticides in the environment or
 34 to measure or monitor pesticide levels.

35 (4) Every state agency and public university listed under ORS 634.660 shall report
 36 biennially to the committee administrator. The report shall include, but need not be limited
 37 to, any changes in the integrated pest management plan of the state agency or public uni-
 38 versity, the number of pest management suppression and prevention efforts requiring the
 39 use of pesticides, the amount of pesticide applied, and any measures taken to reduce human
 40 health or environmental impacts during the application of pesticides.

41 (5) The committee administrator shall report as provided under ORS 192.235 to 192.245
 42 every four years to a committee of the Legislative Assembly dealing with environmental
 43 matters. The report shall include, but need not be limited to, a quantitative and qualitative
 44 analysis of the effectiveness of the integrated pest management definitions and policies
 45 adopted by the committee as evidenced by environmental outcome measurements and an

1 environmental health benefits analysis.

2 **SECTION 4.** (1) Each state agency and public university listed under ORS 634.660 shall
 3 adopt policies and processes for ensuring that the integrated pest management plan coordi-
 4 nator for the state agency or public university, or a designee of the coordinator, gives af-
 5 fected staff and public users of state agency property or affected staff, faculty, students and
 6 public users of a public university campus notice of a proposed pesticide application to a
 7 state agency property or public university campus.

8 (2) Except as provided in this subsection, the plan coordinator or designee must give a
 9 pesticide application notice in a manner reasonably calculated to reach the intended recipient
 10 at least 24 hours before the pesticide application occurs. The manner of notice must include,
 11 but need not be limited to, the use of available means of electronic communication and
 12 posting on a website for the state agency or public university. A notice must identify the
 13 name, trademark or type of pesticide products, the registration number assigned to each of
 14 the pesticide products, the expected area of application, the expected date of application and
 15 the reason for the application. If a pest emergency makes it impracticable to give a pesticide
 16 application notice at least 24 hours before the pesticide application occurs, the plan coordi-
 17 nator or designee shall send the notice no later than 24 hours after the application occurs.

18 (3) Except as provided in this subsection, if a pesticide is applied to a state agency prop-
 19 erty listed in ORS 634.660 or to a public university campus that is subject to ORS 634.660,
 20 and the state agency property or public university campus may reasonably be expected to
 21 be accessed by staff or public users of state agency property or staff, faculty, students or
 22 public users of a public university campus, the plan coordinator or a designee of the coordi-
 23 nator shall place warning signs around pesticide application areas beginning no later than
 24 24 hours before the application occurs and ending no earlier than 72 hours after the appli-
 25 cation occurs. A warning sign must bear the words "Warning: pesticide-treated area," give
 26 the expected or actual date and time for the application and provide the telephone number
 27 of a contact person. If a pest emergency makes it impracticable to place the warning signs
 28 at least 24 hours before the pesticide application, the plan coordinator or designee shall place
 29 the signs as soon as practicable but no later than at the time the application occurs. This
 30 subsection does not apply to state agency property owned, operated or controlled by the
 31 State Forestry Department.

32 (4) Failure to give notice or post warnings as required by this section does not create a
 33 cause of action for damages and may not be asserted as the basis for a per se negligence
 34 claim.

35 **SECTION 5.** (1) If a pesticide is applied to a state agency property listed in ORS 634.660
 36 or to a public university campus subject to ORS 634.660, the integrated pest management
 37 plan coordinator or a designee of the coordinator shall keep the labeling information and
 38 material data safety sheet for the pesticide on file at the nearest office of the state agency
 39 or at the local administration office for the university. The plan coordinator or designee shall
 40 record and make available the following information:

- 41 (a) The brand name or trademark of the pesticide product;
- 42 (b) The United States Environmental Protection Agency registration number assigned to
 43 the pesticide product;
- 44 (c) The pest condition that prompted the application;
- 45 (d) A description of the area of the building, facility, grounds or campus where the ap-

1 **plication occurred;**

2 **(e) The approximate amount and concentration of pesticide product applied;**

3 **(f) The type of application and whether the application proved effective;**

4 **(g) The pesticide applicator or public applicator license numbers and pesticide trainee or**
5 **public trainee certificate numbers of the persons applying the pesticide;**

6 **(h) The names of the persons applying the pesticide;**

7 **(i) The dates on which the plan coordinator gave any notices required by section 4 of this**
8 **2013 Act; and**

9 **(j) The dates and times for the placement and removal of warning signs under section 4**
10 **of this 2013 Act.**

11 **(2) Pesticide application records must include copies of all notices given under section 4**
12 **of this 2013 Act.**

13 **(3) A state agency or public university shall retain pesticide application records required**
14 **by this section for at least four years following the application date.**

15 **(4) A state agency listed under ORS 634.660 or public university that is subject to ORS**
16 **634.660 shall adopt a procedure for responding to inquiries from interested parties regarding**
17 **the integrated pest management program of the state agency or public university or re-**
18 **garding a pesticide application and for responding to complaints regarding possible violations**
19 **of the integrated pest management plan.**

20 **SECTION 6. ORS 634.650 to 634.665 do not limit or prohibit the use of pesticides in sci-**
21 **entific or academic instruction at a research facility that has procedures, permitting and**
22 **reporting requirements in place. The use of pesticides at a research facility for maintenance**
23 **or site management purposes is subject to ORS 634.650 to 634.665.**

24 **SECTION 7. ORS 634.650 is amended to read:**

25 634.650. As used in ORS 634.650 to 634.665:

26 *[(1) "Integrated pest management" means a coordinated decision-making and action process that*
27 *uses the most appropriate pest control methods and strategy in an environmentally and economically*
28 *sound manner to meet agency pest management objectives. The elements of integrated pest management*
29 *include:]*

30 *[(a) Preventing pest problems;]*

31 *[(b) Monitoring for the presence of pests and pest damage;]*

32 *[(c) Establishing the density of the pest population, which may be set at zero, that can be tolerated*
33 *or correlated with a damage level sufficient to warrant treatment of the problem based on health, public*
34 *safety, economic or aesthetic thresholds;]*

35 *[(d) Treating pest problems to reduce populations below those levels established by damage*
36 *thresholds using strategies that may include biological, cultural, mechanical and chemical control*
37 *methods and that shall consider human health, ecological impact, feasibility and cost effectiveness;*
38 *and]*

39 *[(e) Evaluating the effects and efficacy of pest treatments.]*

40 **(1) "Integrated pest management plan" means a proactive strategy that:**

41 **(a) Focuses on the long-term prevention or suppression of pest problems through coor-**
42 **ordinated approaches that:**

43 **(A) Maintain pest populations below action threshold levels while ensuring minimal hu-**
44 **man exposure to health risks, inflicting minimal hazards on the environment, encouraging**
45 **the least use of chemical pesticides possible and providing for effective monitoring through**

1 inspections and standardized record keeping on the evaluation of pest management practices;

2 (B) Protect the health and safety of staff and public users of state agency property or
3 of staff, faculty, students and public users of a public university campus;

4 (C) Protect the integrity of buildings and facilities on state agency property or public
5 university campus;

6 (D) Maintain a healthy and productive work environment; and

7 (E) Protect local ecosystem health;

8 (b) Focuses on the prevention of pest problems by working to reduce or eliminate condi-
9 tions of real property construction, operation and maintenance that promote or allow for the
10 establishment, feeding, breeding and proliferation of pest populations or other conditions
11 that are conducive to pests or that create harborage for pests;

12 (c) Incorporates the use of sanitation, structural remediation or habitat manipulation or
13 of mechanical, biological and chemical pest control measures that present a reduced risk or
14 have a low impact and, for the purpose of mitigating a declared pest emergency, the appli-
15 cation of pesticides that are not low-impact pesticides;

16 (d) Includes regular monitoring and inspections to detect pests, pest damage and un-
17 sanctioned pesticide usage;

18 (e) Evaluates the need for pest control by identifying acceptable pest population density
19 levels;

20 (f) Monitors and evaluates the effectiveness of pest control measures;

21 (g) Excludes the application of pesticides on a routine schedule for purely preventive
22 purposes, other than applications of pesticides designed to attract or be consumed by pests;

23 (h) Excludes the application of pesticides for purely aesthetic purposes;

24 (i) Includes employee education about sanitation, monitoring and inspection and about
25 pest control measures;

26 (j) Reduces or, if possible, eliminates hazardous chemicals and toxic materials in oper-
27 ations and maintenance;

28 (k) Allows the use of low-impact pesticides if nonchemical pest control measures are in-
29 effective; and

30 (L) Allows the application of a pesticide that is not a low-impact pesticide only to miti-
31 gate a declared pest emergency or if the application is by, or at the direction or order of, a
32 public health official.

33 (2) "Low-impact pesticide" means a product that:

34 (a) Does not contain a pesticide product or active ingredient that has the signal words
35 "warning" or "danger" on the label;

36 (b) Does not contain a pesticide product classified as a human carcinogen or probable
37 human carcinogen under the United States Environmental Protection Agency 1986 Guidelines
38 for Carcinogen Risk Assessment;

39 (c) Does not contain a pesticide product classified as carcinogenic to humans or likely
40 to be carcinogenic to humans under the United States Environmental Protection Agency 2003
41 Draft Final Guidelines for Carcinogen Risk Assessment;

42 (d) Has been determined to have a low toxicity to fish, animals, beneficial insects and
43 nontargeted aquatic and terrestrial plants; and

44 (e) Has been determined to have a low potential for groundwater contamination,
45 volatilization and drift.

[2] (3) “Pest” means any vertebrate or invertebrate animal, pathogen, parasitic plant, weed or similar or allied organism which can cause disease or damage to crops, trees, shrubs, grasses or other plants, humans, animals or property.

(4) “Pest emergency” means an urgent need to eliminate or mitigate a pest situation that threatens:

(a) The health or safety of employees, students, visitors and other persons on state agency property or a public university campus; or

(b) The structural integrity of a building or facility.

(5) “Public university campus” means the buildings, other structures, grounds, athletic fields and parking lots of a public university listed in ORS 352.002, university sponsored housing and any other areas on university property that are accessed by students, families of students, faculty, staff or the general public on a regular basis.

(6) “State agency property” means the buildings, facilities, grounds, parking lots, roadways, rights-of-way, resources and natural areas and parks that are owned, occupied or controlled by a state agency.

SECTION 8. ORS 634.660 is amended to read:

634.660. Each of the following [*state agencies*] shall implement integrated pest management practices when carrying out [*the agency’s*] duties related to pest control:

(1) State Department of Agriculture, including the control of noxious weeds.

(2) State Department of Fish and Wildlife.

(3) Department of Transportation.

(4) State Parks and Recreation Department.

(5) State Forestry Department.

(6) Department of Corrections.

(7) Oregon Department of Administrative Services.

(8) The Department of State Lands.

(9) The Invasive Species Council.

(10) The Department of Environmental Quality.

(11) The Oregon Health Authority.

[9] (12) Each public university listed in ORS 352.002, for the public university’s own building and grounds maintenance.

SECTION 9. ORS 634.665 is amended to read:

634.665. (1) Each state agency [*or institution*] listed under ORS 634.660 **or public university that is subject to ORS 634.660** shall provide **at least six hours of** integrated pest management training **yearly** for employees responsible for pest management. **The training shall include at least a general review of integrated pest management principles and the requirements of ORS 634.650 to 634.665.**

(2) Each state agency [*or institution*] listed under ORS 634.660 **or public university that is subject to ORS 634.660** shall designate an integrated pest management **plan** coordinator. The integrated pest management **plan** coordinator shall manage the integrated pest management program of the **state** agency or [*institution*] **public university**.

(3) **A plan coordinator must be a state employee or an independent contractor. Each state agency listed under ORS 634.660 or public university that is subject to ORS 634.660 shall have the services of at least one integrated pest management plan coordinator. A plan coordinator may serve more than one state agency or public university. The responsibilities**

1 of the plan coordinator shall include, but need not be limited to:

2 (a) Giving notice and posting warnings under section 4 of this 2013 Act;

3 (b) Overseeing pest prevention efforts;

4 (c) Providing for the identification and evaluation of pest situations;

5 (d) Determining the means of appropriately managing pest damage that will cause the
6 least possible hazard to people, property and the environment;

7 (e) Ensuring the proper and lawful performance of pesticide applications;

8 (f) Evaluating pest management results;

9 (g) Keeping records as required by section 5 of this 2013 Act; and

10 (h) If the state agency or public university leases part of a building, facility, grounds or
11 campus to another party, providing outreach to the lessee concerning compliance with the
12 state agency or public university integrated pest management plan.

13 **SECTION 10.** ORS 452.010 is amended to read:

14 452.010. As used in this section and ORS 452.020 to 452.300, unless the context requires other-
15 wise:

16 (1) "County court" includes board of county commissioners.

17 (2) "District" means a vector control district established for the prevention, control or
18 eradication of public health vectors and predatory animals.

19 (3) "Health officer" means the health officer appointed under ORS 431.418.

20 (4) "Integrated pest management methods" means *[the processes described in ORS 634.650 (1).]*
21 **a coordinated decision-making and action process that uses the most appropriate pest con-**
22 **trol methods and strategy in an environmentally and economically sound manner to meet**
23 **site-specific management objectives. As used in this subsection, "most appropriate" means**
24 **methods that ensure minimal human exposure to health risks and, where possible, minimal**
25 **infliction of hazards on the environment through the use of low-impact pesticides as defined**
26 **in ORS 634.650.**

27 (5) "Pesticide use plan" means an annual plan created by a vector control district or a county
28 court that describes anticipated pesticide use.

29 (6) "Predatory animals" has the meaning given that term in ORS 610.002.

30 (7) "Public health vectors" means arthropods and vertebrates of public health significance and
31 those insects included within the family Chironomidae of the order Diptera. The term does not in-
32 clude any domesticated animal.

33 (8) "Vector habitat" means any area where public health vectors are found.

34 **SECTION 11.** ORS 634.122 is amended to read:

35 634.122. (1) An applicant for a pesticide applicator's license is entitled to be examined for or to
36 be issued a license or supplements thereto by the State Department of Agriculture, if the applicant:

37 (a) Is at least 18 years of age; and

38 (b) Proves to the satisfaction of the department that the applicant:

39 (A) Has had experience as a pesticide trainee for the minimum period and in the manner pre-
40 scribed by the department;

41 (B) Has educational qualifications, experience or training which is equal to the minimum stan-
42 dards and requirements established by the department; or

43 (C) Has been licensed in Oregon as a pesticide applicator and actively engaged in such work
44 during the prior license period, as shall be prescribed by the department.

45 (2) An applicant for a pesticide applicator's license shall be required to demonstrate satisfac-

1 torily by written examination or any reexamination given by the department, an adequate knowledge
2 of:

3 (a) The characteristics of pesticides and the effect of their application to particular crops.

4 (b) The practices of application of pesticides.

5 (c) The conditions and times of application of pesticides and the precautions to be taken in
6 connection therewith.

7 (d) The applicable laws and rules relating to pesticides and their application in this state.

8 (e) Integrated pest management [*techniques, as defined in ORS 634.650, for pest control*] **plan**
9 **definitions and policies adopted under section 3 of this 2013 Act.**

10 (f) Other requirements or procedures which will be of benefit to and protect the pesticide
11 applicator, the persons who use the services of the pesticide applicator and the property of others.

12 (3) Based upon the license application and the request of the applicant, the department may
13 examine the applicant only in any one or more of the classes of pest control or pesticide application
14 businesses established by the department under ORS 634.306 (2).

15 (4)(a) A pesticide applicator license fee shall be established by the department not to exceed \$50
16 for the first class of pest control or pesticide application business as prescribed in ORS 634.306 (2)
17 and not to exceed \$7.50 for each additional class.

18 (b) After a person makes first application for a license or renewal thereof for a specific license
19 period, if later during the same license period such person desires to engage in additional classes
20 of pest control or pesticide application business as prescribed in ORS 634.306 (2), such person shall
21 pay the fee for each additional class established by the department not to exceed \$12.50.

22 (5) Examinations or reexaminations for pesticide applicator's licenses shall be given by the de-
23 partment at such time and in any of its branch offices or other locations it deems expedient, and
24 shall be under the supervision of its employees or appointees. The department is authorized to:

25 (a) Appoint without pay or reimbursement, employees of other state agencies who are authorized
26 to give examinations.

27 (b) Prepare and maintain various types of examinations and types and schedules of reexamina-
28 tions and to take all other measures deemed necessary to insure that persons receiving passing
29 grades thereto have been fairly and reasonably tested as to their ability and that there have been
30 no fraudulent or dishonest means used by the applicants in applying for or in the taking of exam-
31 inations or reexaminations.

32 (6) If it verifies an applicant has received a passing grade on the examination or reexamination
33 and otherwise has complied with the provisions of this chapter, the department shall issue a pesti-
34 cide applicator's license.

35 (7) Each person who has failed to receive a passing grade or for other reasons was not issued
36 a license as a result of an examination or reexamination given by the department, shall pay \$5 to
37 partially reimburse the department for its costs to administer each reexamination to the applicant.
38