

LC 4247  
2015 Regular Session  
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# D R A F T

## SUMMARY

Requires State Forestry Department to collect and analyze information regarding sufficiency of existing legal requirements to protect certain areas in proximity to forestland from impacts due to application of pesticides by aircraft. Requires department to report findings to interim committee of Legislative Assembly no later than September 15, 2016.

Requires individual engaging in application of pesticides by aircraft to have aerial pesticide applicator certificate. Establishes qualifications for obtaining and maintaining certificate.

Authorizes State Department of Agriculture to suspend, revoke or refuse to renew license, certificate or other authorization if civil penalty is not paid within 90 days. Increases maximum amounts of certain civil penalties.

Defines “person” for purposes of pesticide control chapter.

Requires governing board of Pesticide Analytical and Response Center to develop standard operating procedures for implementation by public entities represented on board to coordinate receipt of, and response to, pesticide-related complaints indicating possible health or environmental effects. Requires board to report biennially to Legislative Assembly on activities of board and public entities represented on board regarding standard operating procedures.

Requires State Department of Agriculture to operate telephone line for receiving, and facilitating coordination of responses to, pesticide-related complaints by public indicating possible health or environmental effects. Requires department to report biennially to Legislative Assembly regarding telephone line operations.

Requires State Department of Agriculture to place information regarding pesticides on department website. Requires that information indicate pesticides and devices listed by department as highly toxic or restricted-use.

Increases maximum amount the State Department of Agriculture may establish as pesticide registration fee.

Allows State Department of Agriculture to require individual holding license, certificate or other authorization to retake examination if individual commits or has responsibility for violation indicating inadequate knowledge of pesticide laws and rules. Allows department to suspend, revoke or refuse

**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 to renew license, certificate or other authorization if individual fails retaken  
2 examination.

3 Makes provisions other than State Forestry Department study operative  
4 on either January 1, 2016, or January 1, 2017.

5 Declares emergency, effective on passage.

### 6 **A BILL FOR AN ACT**

7 Relating to pesticide control; creating new provisions; amending ORS  
8 634.006, 634.016, 634.116, 634.126, 634.172, 634.306, 634.550 and 634.900; and  
9 declaring an emergency.

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

### 11 **ADDITIONS TO PESTICIDE CHAPTER**

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13 **SECTION 1. Sections 3, 9, 10, 15 to 17 and 19 of this 2015 Act are**  
14 **added to and made a part of ORS chapter 634.**

### 15 **AERIAL APPLICATION STUDY**

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18 **SECTION 2. (1) As used in this section:**

19 **(a) "Forestland" has the meaning given that term in ORS 526.005.**

20 **(b) "Pesticide" has the meaning given that term in ORS 634.006.**

21 **(2) The State Forestry Department, in consultation with the State**  
22 **Board of Forestry, shall collect and analyze information regarding the**  
23 **sufficiency of existing legal requirements, including but not limited to**  
24 **buffer zone requirements, to protect schools, homes, fish-bearing**  
25 **streams and drinking water sources that are in proximity to forestland**  
26 **from impacts due to the application of pesticides by aircraft. The de-**  
27 **partment shall consider issues regarding the protection of schools,**  
28 **homes, fish-bearing streams and drinking water sources from direct**  
29 **application of the pesticides and from the drifting of the pesticides**  
30 **following application. Information that the department relies upon for**  
31 **purposes of subsection (4) of this section must be based on the best**

1 available science and focused on the need to protect human health.

2 (3) The department may undertake any actions reasonable or nec-  
3 essary to carry out its duties under this section. All agencies of state  
4 government, as defined in ORS 174.111, are directed to assist the de-  
5 partment in the performance of its duties under this section and, to  
6 the extent permitted by laws relating to confidentiality, to furnish  
7 such information and advice as the department considers necessary to  
8 perform its duties under this section.

9 (4) The department shall complete its work under this section and  
10 report the results to an interim committee of the Legislative Assembly  
11 relating to natural resources no later than September 15, 2016. The  
12 report shall include, but need not be limited to, recommendations of  
13 the department regarding the need for, and size of, buffer zones to  
14 protect schools, homes, fish-bearing streams and drinking water  
15 sources that are in proximity to forestland from impacts due to the  
16 application of pesticides by aircraft.

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## AERIAL APPLICATORS

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20 SECTION 3. (1) An individual may not spray or otherwise apply a  
21 pesticide by aircraft unless the individual holds a valid aerial pesticide  
22 applicator certificate issued by the State Department of Agriculture.

23 (2) The department may issue an aerial pesticide applicator certif-  
24 icate to an individual who:

25 (a) Is a licensed pesticide applicator, licensed public applicator or  
26 certified private applicator;

27 (b) Holds a valid commercial pilot certificate for the type of aircraft  
28 to be used by the individual in applying pesticides;

29 (c) Has 50 or more hours of experience as a licensed pesticide  
30 applicator, licensed public applicator or certified private applicator, or  
31 as a pesticide trainee or public trainee under the supervision of a li-

1 censed pesticide applicator, licensed public applicator or certified pri-  
2 vate applicator, on flights conducted for the purpose of carrying out,  
3 or training to carry out, spraying or otherwise applying pesticides by  
4 aircraft; and

5 (d) Pays a certificate fee established by the department by rule.

6 (3)(a) The department shall establish a term for aerial pesticide  
7 applicator certificates, not to exceed five years. The department shall  
8 suspend or revoke the certificate if the certificate holder fails to  
9 maintain a valid pesticide applicator license, public applicator license  
10 or private applicator certificate. Except as provided in paragraph (b)  
11 of this subsection, an aerial pesticide applicator certificate may be  
12 renewed.

13 (b) The certificate holder may renew an aerial pesticide applicator  
14 certificate only if, during the preceding five years, the holder suc-  
15 cessfully completed at least 10 credit hours in programs of instruction  
16 or educational courses satisfactory to the department and related to  
17 the spraying or other application of pesticides by aircraft. In deter-  
18 mining whether programs of instruction or educational courses are  
19 satisfactory for purposes of this subsection, the department shall  
20 consult with professional associations or other organizations serving  
21 aerial applicators of pesticides or with a national organization of state  
22 agencies that regulate agriculture. The department shall count any  
23 credit hours in satisfactory programs of instruction or educational  
24 courses described in this subsection toward any instruction or educa-  
25 tion requirements imposed by the department for the renewal of a  
26 pesticide applicator license.

27 (4) If a certificate holder is licensed as a public applicator, the cer-  
28 tificate holder may spray or otherwise apply pesticides by aircraft only  
29 to properties described in ORS 634.116 (12).

30 SECTION 4. Section 3 of this 2015 Act is amended to read:

31 **Sec. 3.** (1) An individual may not spray or otherwise apply a pesticide

1 by aircraft unless the individual holds a valid aerial pesticide applicator  
2 certificate issued by the State Department of Agriculture.

3 (2) The department may issue an aerial pesticide applicator certificate to  
4 an individual who:

5 (a) Is a licensed pesticide applicator, licensed public applicator or certi-  
6 fied private applicator;

7 **(b) Passes a national examination, or other examination approved**  
8 **by the department, testing the knowledge of the individual regarding**  
9 **proper spraying and other application of pesticides by aircraft;**

10 [(b)] (c) Holds a valid commercial pilot certificate for the type of aircraft  
11 to be used by the individual in applying pesticides;

12 [(c)] (d) Has 50 or more hours of experience as a licensed pesticide  
13 applicator, licensed public applicator or certified private applicator, or as a  
14 pesticide trainee or public trainee under the supervision of a [*licensed pesti-*  
15 *cide applicator, licensed public applicator or certified private applicator*] **cer-**  
16 **tified aerial pesticide applicator**, on flights conducted for the purpose of  
17 carrying out, or training to carry out, spraying or otherwise applying pesti-  
18 cides by aircraft; and

19 [(d)] (e) Pays a certificate fee established by the department by rule.

20 **(3) In determining appropriate examinations for approval under**  
21 **subsection (2)(b) of this section, the department shall give consider-**  
22 **ation to any examination of aerial pesticide applicator competency**  
23 **developed or approved by a national organization of state agencies that**  
24 **regulate agriculture.**

25 [(3)(a)] (4)(a) The department shall establish a term for aerial pesticide  
26 applicator certificates, not to exceed five years. The department shall sus-  
27 pend or revoke the certificate if the certificate holder fails to maintain a  
28 valid pesticide applicator license, public applicator license or private  
29 applicator certificate. Except as provided in paragraph (b) of this subsection,  
30 an aerial pesticide applicator certificate may be renewed.

31 (b) The certificate holder may renew an aerial pesticide applicator cer-

1 tificate only if, during the preceding five years, the holder successfully  
2 completed at least 10 credit hours in programs of instruction or educational  
3 courses satisfactory to the department and related to the spraying or other  
4 application of pesticides by aircraft. In determining whether programs of  
5 instruction or educational courses are satisfactory for purposes of this sub-  
6 section, the department shall consult with professional associations or other  
7 organizations serving aerial applicators of pesticides or with a national or-  
8 ganization of state agencies that regulate agriculture. The department shall  
9 count any credit hours in satisfactory programs of instruction or educational  
10 courses described in this subsection toward any instruction or education re-  
11 quirements imposed by the department for the renewal of a pesticide  
12 applicator license.

13 [(4)] (5) If a certificate holder is licensed as a public applicator, the cer-  
14 tificate holder may spray or otherwise apply pesticides by aircraft only to  
15 properties described in ORS 634.116 (12).

16 **SECTION 5.** ORS 634.116 is amended to read:

17 634.116. (1) A pesticide operator's license, or supplements thereto, shall  
18 authorize the licensee to engage in one or more of the classes of pest control  
19 or pesticide application business prescribed by the State Department of Ag-  
20 riculture under ORS 634.306 (2). The department may not issue a pesticide  
21 operator license to the United States, the State of Oregon or federal, state  
22 or local agencies, instrumentalities, political subdivisions, counties, cities,  
23 towns, municipal corporations, irrigation, drainage or other districts or other  
24 federal, state or local governmental bodies.

25 (2) During a license period, and after a person has been issued a license  
26 to engage in certain classes of pest control or pesticide application business  
27 during a license period, the department upon receiving an additional appli-  
28 cation and applicable fees, may authorize the licensee to engage in additional  
29 classes of pest control or pesticide application business for the remainder of  
30 the license period as prescribed in ORS 634.306 (2).

31 (3)(a) The department shall establish a pesticide operator license fee not

1 to exceed \$90 for the first class of pest control or pesticide application  
2 business as prescribed in ORS 634.306 (2) and not to exceed \$15 for each ad-  
3 ditional class.

4 (b) After a person makes first application for a specific license period, if  
5 later during the same license period the person desires to engage in addi-  
6 tional classes of pest control or pesticide application businesses, such person  
7 shall pay the fee for each additional class established by the department not  
8 to exceed \$20.

9 (4) At least one owner or part owner of the pest control or pesticide ap-  
10 plication business shall also obtain and maintain a pesticide applicator's li-  
11 cense if the pesticide operator is a sole proprietorship or a partnership. At  
12 least one officer or employee shall obtain and maintain a pesticide  
13 applicator's license if the pesticide operator is a corporation. If a pesticide  
14 operator is found to be in violation of this subsection, the pesticide  
15 operator's license, notwithstanding ORS chapter 183, is automatically sus-  
16 pended until the pesticide operator is in compliance. If the business is owned  
17 by one individual, the department shall make no charge for the pesticide  
18 applicator license issued to the individual under ORS 634.122.

19 (5) The department shall not issue or renew a pesticide operator's license  
20 until the applicant or licensee has furnished evidence to the department, in  
21 the form of a public liability policy issued by an insurance company qualified  
22 to do business in Oregon, protecting the applicant or licensee against li-  
23 ability for injury or death to persons and loss of or damage to property re-  
24 sulting from the application of pesticides, or in lieu of a policy, has furnished  
25 a deposit of cash, surety bond or other evidence of financial responsibility  
26 acceptable to the department that may be applied by the department to the  
27 payment of damages resulting from operator liability. However:

28 (a) Except as required under paragraph (b) of this subsection, the finan-  
29 cial responsibility required by this section shall not apply to damages or  
30 injury to crops, real or personal property being worked upon by the appli-  
31 cant.

1 (b) If the applicant or licensee is to be engaged in the business of con-  
2 trolling or eradicating structural pests, or pests within a public or private  
3 place, or pests within private or public places where food is served, prepared  
4 or processed or where persons are regularly housed, the financial responsi-  
5 bility required by this section shall apply to damages or injury to real or  
6 personal property being worked upon, as well as all the other real and per-  
7 sonal property set forth in this section.

8 (6) The financial responsibility required by subsection (5) of this section  
9 must be not less than \$25,000 for bodily injury to one or more persons and  
10 not less than \$25,000 for property damage.

11 (7) Notwithstanding the provisions of ORS chapter 183, if the licensed  
12 pesticide operator fails to maintain the financial responsibility required by  
13 subsections (5) and (6) of this section, the license is automatically suspended  
14 until the department again verifies the pesticide operator is in compliance  
15 with subsections (5) and (6) of this section. The liability insurance company  
16 shall notify the department in writing at least 30 days prior to any cancel-  
17 lation of an insurance policy required by this section.

18 (8) Notwithstanding the provisions of ORS 105.810 and 105.815 or other  
19 laws to the contrary, the amount of damages for which a pesticide operator  
20 or pesticide applicator is liable as a result of use of pesticides, or financial  
21 responsibility for the same is limited to actual damages only.

22 (9) The department shall return the deposit required by subsection (5) of  
23 this section to the pesticide operator if the pesticide operator at any time  
24 establishes exemption from the financial responsibility requirements under  
25 this chapter. After the expiration of two years from the date of an injury,  
26 death, loss or damage, the department shall return any deposit remaining to  
27 the pesticide operator or to the personal representative of the pesticide op-  
28 erator except that the department shall not make a return if the department  
29 has received notice that an action for damages arising out of the provisions  
30 of this section has been filed against the pesticide operator for whom the  
31 deposit was made, and the department has determined that the action is



1 pending or that any judgment resulting from the action remains unpaid.

2 (10) If the pesticide operator is **or employs a pesticide applicator or**  
3 **private applicator certified under section 3 of this 2015 Act** to spray **or**  
4 **otherwise apply pesticides** by aircraft, [*then the department,*] in addition  
5 to other provisions of this section relating to financial responsibility, **the**  
6 **department** may by rule allow [*aircraft pesticide operators*] **the pesticide**  
7 **operator** to reduce, suspend or terminate the liability insurance, applicable  
8 to spraying **or otherwise applying pesticides** by aircraft, and required by  
9 subsections (5) and (6) of this section during certain periods of the year.

10 (11) The department may by rule allow liability insurance policies re-  
11 quired by subsections (5) and (6) of this section to include deductible clauses  
12 of amounts to be determined by the department.

13 (12)(a) The United States, the State of Oregon or federal, state or local  
14 agencies, instrumentalities, political subdivisions, counties, cities, towns,  
15 municipal corporations, irrigation, drainage or other districts or other fed-  
16 eral, state or local governmental bodies are not required to obtain a license  
17 as a pesticide operator or to furnish evidence of financial responsibility to  
18 the department when:

19 (A) Applying pesticides to property under their ownership, possession,  
20 control or jurisdiction;

21 (B) Applying pesticides pursuant to an order issued by the department for  
22 purposes of controlling or eradicating noxious weeds or pests; or

23 (C) Applying pesticides to property under the ownership, possession, con-  
24 trol or jurisdiction of another federal, state or local agency, instrumentality,  
25 political subdivision, county, city, town, municipal corporation, irrigation,  
26 drainage or other district or other federal, state or local governmental body  
27 or of a homeowners association as defined under ORS 94.550 if:

28 (i) The land is in a jurisdiction adjacent to property under their owner-  
29 ship, possession, control or jurisdiction;

30 (ii) The application is done in conjunction with, or as an extension of,  
31 an application of pesticides to property under their ownership, possession,

1 control or jurisdiction; and

2 (iii) The pesticide application is done on a cost recovery, cooperative  
3 trade of services or no cost basis, and not as a source for profit.

4 (b) A public utility or telecommunications utility is not required to obtain  
5 a license as a pesticide operator or to furnish evidence of financial respon-  
6 sibility to the department when applying pesticides to property under the  
7 ownership, possession or control of the utility.

8 (c) In addition to any application allowed under paragraph (a) of this  
9 subsection, a vector control district is not required to obtain a license as a  
10 pesticide operator or to furnish evidence of financial responsibility to the  
11 department when applying pesticides for the prevention, control or  
12 eradication of a public health vector as defined in ORS 452.010 to property  
13 under the ownership, possession, control or jurisdiction of another federal,  
14 state or local agency, instrumentality, political subdivision, county, city,  
15 town, municipal corporation, irrigation, drainage or other district or other  
16 federal, state or local governmental body or of a homeowners association as  
17 defined under ORS 94.550 if the pesticide application is done on a cost re-  
18 covery, cooperative trade of services or no cost basis, and not as a source  
19 of profit.

20 (13) Subject to subsection (15) of this section, the employees of the agen-  
21 cies, instrumentalities, subdivisions, counties, cities, towns, municipal cor-  
22 porations, districts, governmental bodies or utilities described in subsection  
23 (12) of this section who perform or carry out the work, duties or responsi-  
24 bilities of a pesticide applicator are subject to the provisions of this chapter,  
25 except they shall be issued "public applicator" licenses or, if they carry out  
26 the work, duties or responsibilities of a pesticide trainee, shall be issued  
27 "public trainee" certificates, if they otherwise comply or qualify with the  
28 provisions of this chapter relating thereto.

29 (14) The public applicator license or public trainee certificate shall be:

30 (a) Issued by the department upon payment of the fee for the pesticide  
31 applicator license or pesticide trainee certificate.

1 (b) Valid and used by the licensee or certificate holder only when apply-  
2 ing pesticides as described in subsection (12) of this section.

3 (c) Renewed, suspended or revoked each year in the same manner, under  
4 the same provisions and at the same time as other pesticide applicator li-  
5 censes and trainee certificates are renewed, suspended or revoked.

6 (15) The provisions of subsection (13) of this section apply only to:

7 (a) The application of restricted-use pesticides;

8 (b) The application of any pesticide by using a machine-powered device;

9 or

10 (c) The application of any pesticide at the campus of a school, as defined  
11 in ORS 634.700, by an employee of the school.

12 (16) Prior to applying pesticides to land described in subsection (12)(a)(C)  
13 of this section, a public applicator shall inform the person requesting pesti-  
14 cide application of the possible availability of alternative sources of assist-  
15 ance, including sources in the private sector that are registered with the  
16 department or with industry trade or professional organizations.

17 (17) A federal, state or local agency, instrumentality, political subdivision,  
18 county, city, town, municipal corporation, irrigation, drainage or other dis-  
19 trict or other federal, state or local governmental body may not solicit or  
20 advertise for pesticide application business in areas outside its jurisdiction.

21 **SECTION 6.** ORS 634.126 is amended to read:

22 634.126. (1) In accordance with [*regulations promulgated*] **rules adopted**  
23 by the State Department of Agriculture, as provided in ORS 634.306 (1), the  
24 department shall issue or renew its pesticide trainee's certificate if the ap-  
25 plicant or certificate holder:

26 (a) Is at least 18 years of age;

27 (b) Is employed by a licensed pesticide operator;

28 (c) Is working under the direct supervision and control of a licensed  
29 applicator **or, if spraying or otherwise applying pesticides by aircraft,**  
30 **a certified aerial pesticide applicator;** and

31 (d) Is in compliance with the applicable provisions of this chapter and

1 [regulations promulgated thereunder] **rules adopted under this chapter.**

2 (2) The fees for a pesticide trainee's certificate, or renewal thereof, shall  
3 be the same as the license fee for a pesticide applicator.

4 **SECTION 7.** ORS 634.306 is amended to read:

5 634.306. In accordance with the provisions of ORS chapter 183, the State  
6 Department of Agriculture [*is authorized to promulgate regulations*  
7 *necessary*] **may adopt rules** to carry out the purposes and intent of this  
8 chapter, including but not limited to [*the following*] **rules that:**

9 (1) Establish and maintain a program required for [*a person*] **an individ-**  
10 **ual** to work or engage in the application or spraying of pesticides as a pes-  
11 ticide trainee. In this regard, the department may take into consideration:

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

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

15 (c) Work performance records or reports to be maintained by pesticide  
16 trainees or their employers.

17 (d) Acceptance of educational qualifications, applicable work or experi-  
18 ence in similar or other fields in lieu of, or as a part of, periods of employ-  
19 ment or work by pesticide trainees.

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

23 (f) Laws and requirements relating to other professional, trade or industry  
24 trainee or apprenticeship programs in this or other states.

25 (g) Special requirements if the pesticide trainee is to [*apply*] **assist a**  
26 **pesticide applicator or private applicator certified under section 3 of**  
27 **this 2015 Act in the spraying or other application of** pesticides by [*the*  
28 *use of*] aircraft, and the advisability of allowing participation in federal  
29 flight training programs to be substituted, all or in part, for training re-  
30 quirements under this chapter.

31 (2) Establish and maintain classifications of the various pesticides and

1 of the various pest control or pesticide application businesses in order to  
2 facilitate the licensing or certification and regulation of pesticide consult-  
3 ants, operators, applicators, private applicators and trainees. In this regard  
4 the department may take into consideration:

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

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

8 (c) Precautions required for safe and effective application of such pesti-  
9 cides.

10 (3) Designate pesticides authorized to be used or applied, or prohibited  
11 from use or application, by persons in order to qualify for an exemption un-  
12 der ORS 634.106.

13 (4) Establish and maintain classifications of pesticides and devices  
14 [*which*] **that** are deemed to be highly toxic or restricted-use pesticides or  
15 devices. In this regard, the department shall take into consideration:

16 (a) Laws and regulations of the federal government, including the pro-  
17 visions of the Federal Insecticide, Fungicide and Rodenticide Act, as  
18 amended, and the Federal Environmental Pesticide Control Act.

19 (b) Laws and regulations of other states.

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

22 (5) Establish and maintain types of pesticide consultant or applicator ex-  
23 aminations and reexaminations, schedules for required reexaminations and  
24 other measures deemed necessary for fair and reasonable testing of appli-  
25 cants as provided in ORS 634.122 (5).

26 (6) Designate the conditions under which pesticide operators [*spraying*]  
27 **that are or that employ pesticide applicators or private applicators**  
28 **certified under section 3 of this 2015 Act to spray or otherwise apply**  
29 **pesticides** by aircraft may reduce, suspend or terminate the liability insur-  
30 ance required by ORS 634.116, and the periods of time [*therefor*] **for a re-**  
31 **duction, suspension or termination.** In this regard, the department may

1 take into consideration:

2 (a) Changes in climate or seasons.

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

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

5 (d) Possibilities of injury or death to [*persons*] **humans** and loss or dam-  
6 age to real or personal property.

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

9 (8) Establish and maintain programs of instruction or educational courses  
10 for pesticide consultants, operators, applicators and private applicators in  
11 cooperation with Oregon State University or others, wherein, as far as is  
12 practicable, provisions are made so as to allow such pesticide operators and  
13 applicators to participate only in the instruction or courses directly or in-  
14 directly related to their particular activities. Attendance of licensees may  
15 be required.

16 (9) Prepare and distribute a manual, or other form of publication, con-  
17 taining information helpful and beneficial to [*persons*] **individuals** engaged  
18 in pesticide application or use or to persons preparing to qualify for licens-  
19 ing as a pesticide operator, [*consultants*] **consultant** or applicator and es-  
20 tablish charges therefor.

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

26 (11) Establish registration fees for pesticide brands and formulae or for-  
27 mulations [*thereunder*] **under those pesticide brands**.

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

30 (13) Establish restrictions, methods and procedures in the storage, trans-  
31 portation, use or application of restricted-use pesticides or highly toxic pes-

1 ticides in order to protect humans, pollinating insects, bees, animals, crops,  
2 wildlife, land or environment.

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

5 (a) Laws and regulations of the federal government, including the pro-  
6 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.  
7 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135  
8 et seq., as amended thereby, and regulations thereunder.

9 (b) Minimum periods of experience required and types of experience, ed-  
10 ucation or work acceptable.

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

14 (15) Establish requirements for the reporting of pesticide sales, distrib-  
15 ution or use by any person.

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

18 634.306. In accordance with the provisions of ORS chapter 183, the State  
19 Department of Agriculture [*is authorized to promulgate regulations*  
20 *necessary*] **may adopt rules** to carry out the purposes and intent of this  
21 chapter, including but not limited to [*the following*] **rules that**:

22 (1) Establish and maintain a program required for [*a person*] **an individ-**  
23 **ual** to work or engage in the application or spraying of pesticides as a pes-  
24 ticide trainee. In this regard, the department may take into consideration:

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

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

28 (c) Work performance records or reports to be maintained by pesticide  
29 trainees or their employers.

30 (d) Acceptance of educational qualifications, applicable work or experi-  
31 ence in similar or other fields in lieu of, or as a part of, periods of employ-

1 ment or work by pesticide trainees.

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

5 (f) Laws and requirements relating to other professional, trade or industry  
6 trainee or apprenticeship programs in this or other states.

7 (g) Special requirements if the pesticide trainee is to [*apply*] **assist a**  
8 **pesticide applicator or private applicator certified under section 3 of**  
9 **this 2015 Act in the spraying or other application of** pesticides by [*the*  
10 *use of*] aircraft, and the advisability of allowing participation in federal  
11 flight training programs to be substituted, all or in part, for training re-  
12 quirements under this chapter.

13 (2) Establish and maintain classifications of the various pesticides and  
14 of the various pest control or pesticide application businesses in order to  
15 facilitate the licensing or certification and regulation of pesticide consult-  
16 ants, operators, applicators, private applicators and trainees. In this regard  
17 the department may take into consideration:

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

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

21 (c) Precautions required for safe and effective application of such pesti-  
22 cides.

23 (3) Designate pesticides authorized to be used or applied, or prohibited  
24 from use or application, by persons in order to qualify for an exemption un-  
25 der ORS 634.106.

26 (4) Establish and maintain classifications of pesticides and devices  
27 [*which*] **that** are deemed to be highly toxic or restricted-use pesticides or  
28 devices. In this regard, the department shall take into consideration:

29 (a) Laws and regulations of the federal government, including the pro-  
30 visions of the Federal Insecticide, Fungicide and Rodenticide Act, as  
31 amended, and the Federal Environmental Pesticide Control Act.



1 (b) Laws and regulations of other states.

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

4 (5) Establish and maintain types of pesticide consultant or applicator ex-  
5 aminations and reexaminations, schedules for required reexaminations and  
6 other measures deemed necessary for fair and reasonable testing of appli-  
7 cants as provided in ORS 634.122 (5).

8 (6) Designate the conditions under which pesticide operators [*spraying*]  
9 **that are or that employ pesticide applicators or private applicators**  
10 **certified under section 3 of this 2015 Act to spray or otherwise apply**  
11 **pesticides** by aircraft may reduce, suspend or terminate the liability insur-  
12 ance required by ORS 634.116, and the periods of time [*therefor*] **for a re-**  
13 **duction, suspension or termination.** In this regard, the department may  
14 take into consideration:

15 (a) Changes in climate or seasons.

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

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

18 (d) Possibilities of injury or death to [*persons*] **humans** and loss or dam-  
19 age to real or personal property.

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

22 (8) Establish and maintain programs of instruction or educational courses  
23 for pesticide consultants, operators, applicators and private applicators in  
24 cooperation with Oregon State University or others, wherein, as far as is  
25 practicable, provisions are made so as to allow such pesticide operators and  
26 applicators to participate only in the instruction or courses directly or in-  
27 directly related to their particular activities. Attendance of licensees may  
28 be required.

29 (9) Prepare and distribute a manual, or other form of publication, con-  
30 taining information helpful and beneficial to [*persons*] **individuals** engaged  
31 in pesticide application or use or to persons preparing to qualify for licens-

1 ing as a pesticide operator, [*consultants*] **consultant** or applicator and es-  
2 tablish charges therefor.

3 (10) Establish, from time to time, advisory groups or committees to assist  
4 the department in formulation of policies, plans or regulations under this  
5 chapter. Each member of any such group or committee so established shall  
6 be entitled to compensation and expenses as provided in ORS 292.495, [*which*  
7 *shall*] **to** be charged to the department.

8 (11) Establish registration fees for pesticide brands and formulae or for-  
9 mulations [*thereunder*] **under those pesticide brands**.

10 (12) Establish restrictions or prohibitions as to the form of pesticides al-  
11 lowed to be mixed, applied or added to fertilizers, seed or grains.

12 (13) Establish restrictions, methods and procedures in the storage, trans-  
13 portation, use or application of restricted-use pesticides or highly toxic pes-  
14 ticides in order to protect humans, pollinating insects, bees, animals, crops,  
15 wildlife, land or environment.

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

18 (a) Laws and regulations of the federal government, including the pro-  
19 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.  
20 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135  
21 et seq., as amended thereby, and regulations thereunder.

22 (b) Minimum periods of experience required and types of experience, ed-  
23 ucation or work acceptable.

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

27 **SECTION 9. (1) Notwithstanding section 3 of this 2015 Act, if an**  
28 **individual licensed as a pesticide applicator or public applicator, or**  
29 **certified as a private applicator, files an application on or before 90**  
30 **days after the operative date of section 3 of this 2015 Act for certi-**  
31 **fication under section 3 of this 2015 Act, the State Department of Ag-**

1 **riculture may allow the individual to spray or otherwise apply**  
2 **pesticides by aircraft until the department refuses or grants the cer-**  
3 **tification.**

4 **(2) Notwithstanding the amendments to ORS 634.126 by section 6 of**  
5 **this 2015 Act, a pesticide trainee may receive supervision in the**  
6 **spraying or other application of pesticides by aircraft from an indi-**  
7 **vidual described in subsection (1) of this section.**

8 **(3) Notwithstanding the amendments to ORS 634.116 and 634.306 by**  
9 **sections 5, 7 and 8 of this 2015 Act, the State Department of Agricul-**  
10 **ture may continue in effect any department rule allowing pesticide**  
11 **operators that spray by aircraft to reduce, suspend or terminate the**  
12 **liability insurance applicable to spraying by aircraft during certain**  
13 **periods of the year.**

14

15

## **CIVIL PENALTIES**

16

17 **SECTION 10. The State Department of Agriculture may suspend,**  
18 **revoke or refuse to renew a license, certificate or other authorization**  
19 **issued to a person under this chapter if the person fails to pay a civil**  
20 **penalty under ORS 634.900 on or before 90 days after the date that the**  
21 **civil penalty is imposed on the person.**

22 **SECTION 11. ORS 634.900 is amended to read:**

23 **634.900. (1) In addition to any other liability or penalty provided by law,**  
24 **the Director of Agriculture may impose a civil penalty on a person for vio-**  
25 **lation of any of the provisions of this chapter relating to pesticide applica-**  
26 **tion, sale or labeling. The civil penalty for a first violation shall be not more**  
27 **than [~~\$1,000~~] **\$2,000**. For a subsequent violation, the director may impose a**  
28 **civil penalty of not more than [~~\$2,000~~] **\$4,000**.**

29 **(2) Notwithstanding subsection (1) of this section, if the violation of a**  
30 **provision relating to pesticide application, sale or labeling results from gross**  
31 **negligence or willful misconduct, the civil penalty for a first or subsequent**

1 violation may not exceed \$10,000.

2 (3) A civil penalty may not be imposed under this section for violations  
3 other than those involving pesticide application, sale or labeling violation  
4 under this chapter.

5

6

## DEFINITION CHANGES

7

8 **SECTION 12.** ORS 634.006 is amended to read:

9 634.006. As used in this chapter unless the context requires otherwise:

10 (1) “Antidote” means a practical immediate treatment in case of poisoning  
11 and includes first-aid treatment.

12 (2) “Brand” or “trademark” means any word, name, symbol or any com-  
13 bination thereof adopted or used by a person to identify pesticides manufac-  
14 tured, compounded, delivered, distributed, sold or offered for sale in this  
15 state and to distinguish them from pesticides manufactured, compounded,  
16 delivered, distributed, sold or offered for sale by others.

17 (3) “Department” means the State Department of Agriculture.

18 (4) “Device” means any instrument or contrivance containing pesticides  
19 or other chemicals intended for trapping, destroying, repelling or mitigating  
20 insects or rodents or destroying, repelling or mitigating fungi, nematodes or  
21 such other pests as may be designated by the department, but does not in-  
22 clude equipment used for the application of pesticides or other chemicals  
23 when sold separately from such pesticides or chemicals.

24 [(5) “Private applicator” means a person who uses or supervises the use of  
25 any pesticide, classified by the department as a restricted-use or highly toxic  
26 pesticide, for the purpose of producing agricultural commodities or forest crops  
27 on land owned or leased by the person.]

28 [(6)] (5) “Highly toxic” means a pesticide or device determined by the  
29 department to be capable of causing severe injury, disease or death to human  
30 beings.

31 [(7)] (6) “Landowner” means a person:

1 (a) Owning three acres or more within a proposed protected area; and

2 (b) In the case of multiple ownership of land[, *the owner is only a*  
3 *person*]:

4 (A) Whose interest is greater than an undivided one-half interest  
5 [*therein*] **in the land**; or

6 (B) Who holds an authorization in writing from one or more of the other  
7 owners whose interest, when added to the interest of the person, are greater  
8 than an undivided one-half interest in the land.

9 (7) **“Person” means:**

10 (a) **A person as defined in ORS 174.100;**

11 (b) **A public body as defined in ORS 174.109; and**

12 (c) **The federal government or any of its agencies.**

13 (8) “Pesticide” includes:

14 (a) “Defoliant” which means any substance or mixture of substances in-  
15 tended for causing the leaves or foliage to drop from a plant with or without  
16 causing abscission;

17 (b) “Desiccant” which means any substance or mixture of substances in-  
18 tended for artificially accelerating the drying of plant tissue;

19 (c) “Fungicide” which means any substance or mixture of substances in-  
20 tended for preventing, destroying, repelling or mitigating any fungus;

21 (d) “Herbicide” which means any substance or mixture of substances in-  
22 tended for preventing, destroying, repelling or mitigating any weed;

23 (e) “Insecticide” which means any substance or mixture of substances in-  
24 tended for preventing, destroying, repelling or mitigating any insects which  
25 may be present in any environment whatsoever;

26 (f) “Nematocide” which means any substance or mixture of substances  
27 intended for preventing, destroying, repelling or mitigating nematodes;

28 (g) “Plant regulator” which means any substance or mixture of substances  
29 intended, through physiological action, to accelerate or retard the rate of  
30 growth or rate of maturation or to otherwise alter the behavior of  
31 ornamental or crop plants or the produce thereof, but [*shall*] **does** not in-

1 clude substances to the extent that they are intended as plant nutrients,  
2 trace elements, nutritional chemicals, plant inoculants or soil amendments;  
3 or

4 (h) Any substance, or mixture of substances intended to be used for  
5 defoliating plants or for preventing, destroying, repelling or mitigating all  
6 insects, plant fungi, weeds, rodents, predatory animals or any other form of  
7 plant or animal life which is, or which the department [*may declare*] **de-**  
8 **clares** to be a pest, which may infest or be detrimental to vegetation, hu-  
9 mans, animals, or be present in any environment thereof.

10 (9) “Pesticide applicator” or “applicator” means [*a person*] **an individual**  
11 who:

12 (a) Is spraying or applying pesticides for others;

13 (b) Is authorized to work for and is employed by a pesticide operator; and

14 (c) Is in direct charge of or supervises the spraying or **other** application  
15 of pesticides or operates, uses, drives or physically directs propulsion of  
16 equipment, apparatus or machinery **during the spraying or other applica-**  
17 **tion of pesticides**, either on the ground or, **if certified under section 3**  
18 **of this 2015 Act**, by aircraft [*in such activity*].

19 (10) “Pesticide consultant” means a person[, *including governmental em-*  
20 *ployees,*] who offers or supplies technical advice, supervision, aid or recom-  
21 mendations to the user of pesticides classified by the department as  
22 restricted-use or highly toxic pesticides, whether licensed as a pesticide  
23 dealer or not.

24 (11) “Pesticide dealer” means a person who sells, offers for sale, handles,  
25 displays or distributes any pesticide classified by the department as a  
26 restricted-use or highly toxic pesticide.

27 (12) “Pesticide equipment” means any equipment, machinery or device  
28 used in the actual application of pesticides, including aircraft and ground  
29 spraying equipment.

30 (13) “Pesticide operator” means a person who owns or operates a business  
31 engaged in the application of pesticides upon the land or property of another.

1 (14) "Pesticide trainee" means [*a person*] **an individual** who:

2 (a) Is employed by a pesticide operator; and

3 (b) Is working and engaged in a training program under special certificate  
4 to qualify as a pesticide applicator.

5 **(15) "Private applicator" means an individual who uses or super-**  
6 **vises the use of any pesticide, classified by the department as a**  
7 **restricted-use or highly toxic pesticide, for the purpose of producing**  
8 **agricultural commodities or forest crops on land owned or leased by**  
9 **the individual or the employer of the individual.**

10 [(15)] **(16) "Professed standard of quality" means a plain and true state-**  
11 **ment of the name and percentage of each active ingredient and the total**  
12 **percentage of all inert ingredients contained in any pesticide.**

13 [(16)] **(17) "Protected area" means an area established under the pro-**  
14 **visions of this chapter to prohibit or restrict the application of pesticides.**

15 [(17)] **(18) "Public applicator" means [*a person*] an individual** who is an  
16 employee of the State of Oregon or its agencies, counties, cities, municipal  
17 corporations, other governmental bodies or subdivisions thereof, irrigation  
18 districts, drainage districts and public utilities and telecommunications util-  
19 ities and who performs or carries out the work, duties or responsibilities of  
20 a pesticide applicator.

21 [(18)] **(19) "Public trainee" means [*a person*] an individual** who is an  
22 employee of the State of Oregon or its agencies, counties, cities, municipal  
23 corporations, other governmental bodies or subdivisions thereof, irrigation  
24 districts, drainage districts and public utilities and telecommunications util-  
25 ity and who performs or carries out the work, duties or responsibilities of  
26 a pesticide trainee.

27 [(19)] **(20) "Registrant" means a person registering any pesticide pursuant**  
28 **to this chapter.**

29 [(20)] **(21) "Restricted area" means an area established under the pro-**  
30 **visions of this chapter to restrict, but not prohibit, the application of pesti-**  
31 **cides.**

1 [(21)] (22) “Restricted-use pesticide” means any pesticide or device  
2 [which] **that** the department has found and determined to be so injurious or  
3 detrimental to [persons] **humans**, pollinating insects, bees, animals, crops,  
4 wildlife, land or environment, other than the pests it is intended to prevent,  
5 destroy, control or mitigate, that additional restrictions are required.

6 [(22)] (23) “Weed” means any plant [which] **that** grows where not wanted.

7 **SECTION 13.** ORS 634.172 is amended to read:

8 634.172. (1) No action against a landowner, person for whom the pesticide  
9 was applied or pesticide operator arising out of the use or application of any  
10 pesticide shall be commenced unless, within 60 days from the occurrence of  
11 the loss, within 60 days from the date the loss is discovered, or, if the loss  
12 is alleged to have occurred out of damage to growing crops, before the time  
13 when 50 percent of the crop is harvested, the person commencing the action:

14 (a) Files a report of the alleged loss with the State Department of Agri-  
15 culture;

16 (b) Mails or personally delivers to the landowner or pesticide operator  
17 who is allegedly responsible for the loss a true copy of the report provided  
18 for under paragraph (a) of this subsection; and

19 (c) Mails or personally delivers to the person for whom the pesticide was  
20 applied a true copy of the report required under paragraph (a) of this sub-  
21 section if that person is not the person commencing the action.

22 (2) Any person who claims to have sustained any loss arising out of the  
23 use or application of any pesticide by any state agency, county or munici-  
24 pality may file a report of loss with the department, and mail or personally  
25 deliver a true copy of such report of loss to the state agency, county or  
26 municipality allegedly responsible, within the time provided in subsection (1)  
27 of this section.

28 (3) Upon receiving a report of loss as provided by this section:

29 (a) The department may investigate, examine and determine the extent  
30 and nature of the damage alleged to have been caused to property or crops.  
31 The department shall not determine the source of the damage, the person



1 who may have caused the damage or the financial extent of the loss or  
2 damage. The department shall prepare and file in its office a report of the  
3 investigation, examination and determination. Copies of the report made by  
4 the department may be given upon request to persons who are financially  
5 interested in the matter.

6 (b) The department at the request of, and without cost to, any persons  
7 financially interested in the matter may undertake to mediate an equitable  
8 settlement of the controversy.

9 (4) Upon receiving a request [*therefor*] from any person, other than a  
10 person who may file a report of loss as provided by subsection (1) or (2) of  
11 this section, the department may investigate, examine and determine the ex-  
12 tent and nature of damage alleged to have been caused to property or crops  
13 arising out of the use or application of any pesticide by any other person[  
14 *or any state agency, county or municipality*], provided that the person making  
15 such request reimburses the department for its work. The department shall  
16 not determine the source of the damage, the person who may have caused the  
17 damage or the financial extent of the loss or damage. The department shall  
18 prepare and file in its office a report of the investigation, examination and  
19 determination. Copies of the report made by the department may be given  
20 upon request to persons who are financially interested in the matter.

21 (5) Nothing in this section shall be construed as a waiver by the State  
22 of Oregon or any state agency, county or municipality of any immunity  
23 against suit [*which*] **that** otherwise may exist.

24 (6) Notwithstanding ORS 634.006 [(7)], as used in this section,  
25 “landowner” includes any person[, *firm, corporation, the state, any county*  
26 *within the state, or municipality,*] shown by records of the county to be the  
27 owner of land or having such land under contract for purchase.

28

29 **PESTICIDE ANALYTICAL AND RESPONSE CENTER**

30

31 **SECTION 14.** ORS 634.550 is amended to read:

1 634.550. (1) There is created a Pesticide Analytical and Response Center  
2 with a governing board consisting of the following members:

- 3 (a) The Director of Agriculture or designee.
- 4 (b) The State Forester or designee.
- 5 (c) The State Fish and Wildlife Director or designee.
- 6 (d) The Director of the Department of Environmental Quality or designee.
- 7 (e) The Director of the Oregon Health Authority or designee.
- 8 (f) The Administrator of the Occupational Safety and Health Division or  
9 designee.
- 10 (g) The State Fire Marshal or designee.
- 11 (h) The Director of the Poison Control and Drug Information Program of  
12 the Oregon Health and Science University or designee.
- 13 (i) One citizen from the state at large appointed jointly by the Director  
14 of Agriculture and the Director of the Oregon Health Authority.

15 (2) The Director of Agriculture shall appoint an administrator for the  
16 Pesticide Analytical and Response Center, who shall be responsible to the  
17 board for performance of the duties of the center and the board.

18 (3) The Director of Agriculture or designee and the Director of the  
19 Oregon Health Authority or designee shall alternate as chairperson of the  
20 board for terms of one year each. When one is serving as chairperson, the  
21 other shall serve as vice chairperson.

22 (4) The board shall seek expert consultation from the extension service  
23 toxicology program, the Oregon Institute of Occupational Health Sciences  
24 and such other sources as may be needed.

25 (5) The functions of the board are to:

- 26 (a) Direct the activities and priorities of the administrator of the center.
- 27 (b) Centralize receiving of information relating to actual or alleged health  
28 and environmental incidents involving pesticides.
- 29 (c) Mobilize expertise necessary for timely and accurate investigation of  
30 pesticide incidents and analyses of associated samples.
- 31 (d) Identify trends and patterns of problems related to pesticide use.

1 (e) Make recommendations for action to a state agency when a majority  
2 of the board considers that such action may be warranted on the basis of the  
3 findings of an incident investigation or on the basis of identification of a  
4 trend or pattern of problems. Recommended actions may include, but not  
5 be limited to, regulatory action, modification of administrative rules, pro-  
6 posal of new legislation, public education and consultation to industry.

7 **(f) Develop standard operating procedures for implementation by**  
8 **the public entities represented on the board to coordinate the receipt**  
9 **of, and response to, pesticide-related complaints indicating possible**  
10 **health or environmental effects.**

11 **(g) Report biennially to the Legislative Assembly, or to an interim**  
12 **committee dealing with natural resource issues, regarding activities**  
13 **during the reporting period by the board and by public entities re-**  
14 **presented on the board regarding the development, implementation,**  
15 **amendment or operation of standard operating procedures described**  
16 **in paragraph (f) of this subsection.**

17 [(f)] (h) Report in a standardized format the results of the investigations  
18 of pesticide incidents.

19 [(g)] (i) Establish by consensus, procedures for carrying out its responsi-  
20 bilities within the limits of available resources.

21 [(h)] (j) Prepare and submit to each odd-numbered year regular session  
22 of the Legislative Assembly a report of the activities of the center that in-  
23 cludes a record of recommendations made by the board and the actions re-  
24 sulting from the board's work.

25 (6) Upon receipt of a recommendation from the board, a state agency shall  
26 respond in a timely manner to inform the board of actions taken or the  
27 reasons for taking no action on the recommendation.

28 (7) Any medical information received by a member of the board or by a  
29 staff member of the center in the course of carrying out the duties of the  
30 center or the board shall be held confidential as provided in ORS 192.553 to  
31 192.581 and 433.008.

1 (8) The functions of the board do not supersede the regulatory authority  
2 of any agency and are not in lieu of the regulatory authority of any agency.  
3

4 **PESTICIDE INCIDENT REPORTING**

5  
6 **SECTION 15. (1) The State Department of Agriculture, in consul-**  
7 **tation with the Pesticide Analytical and Response Center, shall estab-**  
8 **lish a pesticide incident telephone line for receiving, and facilitating**  
9 **the coordination of public entities' responses to, pesticide-related**  
10 **complaints by the public indicating possible health or environmental**  
11 **effects.**

12 (2) The center shall develop and maintain standard operating pro-  
13 cedures for use with the telephone line. The department, in consulta-  
14 tion with the center and other affected public entities, shall  
15 periodically update the telephone line operating procedures to comply  
16 with any new standard operating procedures developed by the center.

17 **SECTION 16. The State Department of Agriculture shall report**  
18 **biennially to the Legislative Assembly regarding the operation of the**  
19 **pesticide incident telephone line required under section 15 of this 2015**  
20 **Act. The report may include, but need not be limited to, any recom-**  
21 **mendations of the department or the Pesticide Analytical and Re-**  
22 **sponse Center for legislation regarding the telephone line.**

23  
24 **PESTICIDE INFORMATION**

25  
26 **SECTION 17. The State Department of Agriculture shall post in-**  
27 **formation regarding pesticides on a department website that is avail-**  
28 **able for access by the public without charge. The department shall**  
29 **indicate on the website those pesticides and devices that the depart-**  
30 **ment has listed under ORS 634.316 as highly toxic or restricted-use**  
31 **pesticides or devices.**

**PESTICIDE REGISTRATION FEES**

**SECTION 18.** ORS 634.016 is amended to read:

634.016. (1) Every pesticide, including each formula or formulation, manufactured, compounded, delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year with the State Department of Agriculture.

(2) Every device manufactured, delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year with the department.

(3) The registration shall be made by the manufacturer or a distributor of the pesticide.

(4) The application for registration shall include:

(a) The name and address of the registrant.

(b) The name and address of the manufacturer if different than the registrant.

(c) The brand name or trademark of the pesticide.

(d) A specimen or facsimile of the label of each pesticide, and each formula or formulation, for which registration is sought, except for annual renewals of the registration when the label remains unchanged.

(e) The correct name and total percentage of each active ingredient.

(f) The total percentage of inert ingredients.

(5) The application for registration shall be accompanied by a registration fee to be established by the department for each pesticide and each formula or formulation. The registration fee may not exceed [~~\$250~~] **\$400** for each such pesticide, or each formula or formulation.

(6) The department, at the time of application for registration of any pesticide or after a declaration of a ground water management area under ORS 468B.180 may:

(a) Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide in this state.

(b) Refuse to register any pesticide [*which*] **that** is highly toxic for which

1 there is no effective antidote under the conditions of use for which such  
2 pesticide is intended or recommended.

3 (c) Refuse to register any pesticide for use on a crop for which no finite  
4 tolerances for residues of such pesticide have been established by either the  
5 department or the federal government.

6 (d) In restricting the purposes for which pesticides may be manufactured,  
7 delivered, distributed, sold or used, or in refusing to register any pesticide,  
8 give consideration to:

9 (A) The damage to health or life of humans or animals, or detriment to  
10 the environment, [*which*] **that** might result from the distribution and use of  
11 such pesticide.

12 (B) Authoritative findings and recommendations of agencies of the federal  
13 government and of any advisory committee or group established under ORS  
14 634.306 (10).

15 (C) The existence of an effective antidote under known conditions of use  
16 for which the material is intended or recommended.

17 (D) Residual or delayed toxicity of the material.

18 (E) The extent to which a pesticide or its carrying agent simulates by  
19 appearance and may be mistaken for human food or animal feed.

20 (7) The provisions of this section shall not, except as provided herein,  
21 apply to:

22 (a) The use and purchase of pesticides by the federal government or its  
23 agencies.

24 (b) The sale or exchange of pesticides between manufacturers and dis-  
25 tributors.

26 (c) Drugs, chemicals or other preparations sold or intended for medicinal  
27 or toilet purposes or for use in the arts or sciences.

28 (d) Common carriers, contract carriers or public warehousemen delivering  
29 or storing pesticides, except as provided in ORS 634.322.

30

31

**RETESTING OF VIOLATORS**

1       **SECTION 19.** If an individual holding a license, certificate or other  
2 authorization issued under this chapter commits or has responsibility  
3 for a violation of this chapter related to the spraying or other appli-  
4 cation of a pesticide, or for a violation of a State Department of Ag-  
5 riculture rule related to those applications, and the department in its  
6 discretion deems that the violation indicates an inadequate knowledge  
7 of the laws and rules applicable to pesticides, in addition to any other  
8 available penalty or sanction:

9       (1) The department may require that the individual retake any ex-  
10 amination required for issuance of a license, certificate or other au-  
11 thorization that the individual holds or is required to hold for  
12 activities related to pesticides; and

13       (2) If the individual fails an examination required by the depart-  
14 ment under subsection (1) of this section, the department may sus-  
15 pend, revoke or refuse to renew the license, certificate or other  
16 authorization of the individual. A suspension, revocation or refusal to  
17 renew under this subsection is subject to ORS chapter 183.

18  
19                                   **OPERATIVE DATES AND APPLICABILITY**  
20

21       **SECTION 20.** (1) Sections 3, 9, 10, 15 to 17 and 19 of this 2015 Act  
22 and the amendments to ORS 634.006, 634.016, 634.116, 634.126, 634.172,  
23 634.306, 634.550 and 634.900 by sections 5 to 8, 11 to 14 and 18 of this 2015  
24 Act become operative January 1, 2016.

25       (2) The amendments to section 3 of this 2015 Act by section 4 of this  
26 2015 Act become operative January 1, 2017.

27       (3) The amendments to ORS 634.900 by section 11 of this 2015 Act  
28 apply to violations committed on or after January 1, 2016.

29  
30                                   **REPEALS**  
31

1     **SECTION 21.** Sections 2 and 9 of this 2015 Act are repealed January  
2     **2, 2017.**

3

4

**CAPTIONS**

5

6     **SECTION 22.** The unit captions used in this 2015 Act are provided  
7     **only for the convenience of the reader and do not become part of the**  
8     **statutory law of this state or express any legislative intent in the**  
9     **enactment of this 2015 Act.**

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11

**EMERGENCY**

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13     **SECTION 23.** This 2015 Act being necessary for the immediate  
14     **preservation of the public peace, health and safety, an emergency is**  
15     **declared to exist, and this 2015 Act takes effect on its passage.**

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