

# House Bill 3428

Sponsored by Representatives CLEM, GILLIAM, Senator JOHNSON, Representatives KOMP, MCKEOWN, WITT, Senators HANSELL, ROBLAN; Representatives BARKER, HUFFMAN, JOHNSON, MCLANE, OLSON, PARRISH, WILLIAMSON, Senators BEYER, FERRIOLI, THOMSEN

## 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**.

Creates special certification requirements for pesticide applicators and public applicators who spray or otherwise apply pesticides by aircraft.

## A BILL FOR AN ACT

1  
2 Relating to aerial pesticide applicator certification; creating new provisions; and amending ORS  
3 634.006, 634.116 and 634.306.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 634.**

6 **SECTION 2. (1) A person may not spray or otherwise apply a pesticide by aircraft unless**  
7 **the person holds a valid aerial pesticide applicator certificate issued by the State Department**  
8 **of Agriculture.**

9 **(2) The department may issue an aerial pesticide applicator certificate to a person who:**

10 **(a) Holds a pesticide applicator or public applicator license;**

11 **(b) Holds a valid commercial pilot certificate for the type of aircraft to be used by the**  
12 **person in applying pesticides;**

13 **(c) Has 50 or more hours of experience as a pesticide applicator or public applicator, or**  
14 **as a pesticide trainee or public trainee under the supervision of a pesticide applicator or**  
15 **public applicator, on flights conducted for the purpose of carrying out, or training to carry**  
16 **out, spraying or otherwise applying pesticides by aircraft; and**

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

18 **(3)(a) An aerial pesticide applicator certificate has a term of five years. The department**  
19 **shall suspend or revoke the certificate if the certificate holder fails to maintain a valid pes-**  
20 **ticide applicator or public applicator license. Except as provided in paragraph (b) of this**  
21 **subsection, a certificate may be renewed.**

22 **(b) If the certificate holder is licensed as a pesticide applicator, the certificate holder**  
23 **may renew a certificate only if during the preceding five years the holder successfully com-**  
24 **pleted at least 10 credit hours in programs of instruction or educational courses satisfactory**  
25 **to the department and related to the spraying or other application of pesticides by aircraft.**  
26 **In determining whether programs of instruction or educational courses are satisfactory for**  
27 **purposes of this subsection, the department shall consult with professional associations or**  
28 **other organizations serving aerial applicators of pesticides. The department shall count any**  
29 **credit hours in satisfactory programs of instruction or educational courses described in this**  
30 **subsection toward any instruction or education requirements imposed by the department for**

**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 **the renewal of pesticide applicator licenses.**

2 (4) **If a certificate holder is licensed as a public applicator, the certificate holder may**  
 3 **spray or otherwise apply pesticides by aircraft only to properties described in ORS 634.116**  
 4 **(12).**

5 **SECTION 3.** Section 2 of this 2015 Act is amended to read:

6 **Sec. 2.** (1) A person may not spray or otherwise apply a pesticide by aircraft unless the person  
 7 holds a valid aerial pesticide applicator certificate issued by the State Department of Agriculture.

8 (2) The department may issue an aerial pesticide applicator certificate to a person who:

9 (a) Holds a pesticide applicator or public applicator license;

10 **(b) Passes a national examination or other examination approved by the department**  
 11 **testing the knowledge of the person regarding proper spraying and other application of pes-**  
 12 **ticides by aircraft;**

13 *[(b)]* (c) Holds a valid commercial pilot certificate for the type of aircraft to be used by the  
 14 person in applying pesticides;

15 *[(c)]* (d) Has 50 or more hours of experience as a pesticide applicator or public applicator, or  
 16 as a pesticide trainee or public trainee under the supervision of *[a pesticide applicator or public*  
 17 *applicator]* **an aerial pesticide applicator certificate holder**, on flights conducted for the purpose  
 18 of carrying out, or training to carry out, spraying or otherwise applying pesticides by aircraft; and

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

20 (3)(a) An aerial pesticide applicator certificate has a term of five years. The department shall  
 21 suspend or revoke the certificate if the certificate holder fails to maintain a valid pesticide  
 22 applicator or public applicator license. Except as provided in paragraph (b) of this subsection, a  
 23 certificate may be renewed.

24 (b) If the certificate holder is licensed as a pesticide applicator, the certificate holder may renew  
 25 a certificate only if during the preceding five years the holder successfully completed at least 10  
 26 credit hours in programs of instruction or educational courses satisfactory to the department and  
 27 related to the spraying or other application of pesticides by aircraft. In determining whether pro-  
 28 grams of instruction or educational courses are satisfactory for purposes of this subsection, the de-  
 29 partment shall consult with professional associations or other organizations serving aerial  
 30 applicators of pesticides. The department shall count any credit hours in satisfactory programs of  
 31 instruction or educational courses described in this subsection toward any instruction or education  
 32 requirements imposed by the department for the renewal of pesticide applicator licenses.

33 (4) If a certificate holder is licensed as a public applicator, the certificate holder may spray or  
 34 otherwise apply pesticides by aircraft only to properties described in ORS 634.116 (12).

35 **SECTION 4.** ORS 634.006 is amended to read:

36 634.006. As used in this chapter unless the context requires otherwise:

37 (1) "Antidote" means a practical immediate treatment in case of poisoning and includes first-aid  
 38 treatment.

39 (2) "Brand" or "trademark" means any word, name, symbol or any combination thereof adopted  
 40 or used by a person to identify pesticides manufactured, compounded, delivered, distributed, sold or  
 41 offered for sale in this state and to distinguish them from pesticides manufactured, compounded,  
 42 delivered, distributed, sold or offered for sale by others.

43 (3) "Department" means the State Department of Agriculture.

44 (4) "Device" means any instrument or contrivance containing pesticides or other chemicals in-  
 45 tended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling

1 or mitigating fungi, nematodes or such other pests as may be designated by the department, but does  
 2 not include equipment used for the application of pesticides or other chemicals when sold separately  
 3 from such pesticides or chemicals.

4 (5) "Private applicator" means a person who uses or supervises the use of any pesticide, classi-  
 5 fied by the department as a restricted-use or highly toxic pesticide, for the purpose of producing  
 6 agricultural commodities or forest crops on land owned or leased by the person.

7 (6) "Highly toxic" means a pesticide or device determined by the department to be capable of  
 8 causing severe injury, disease or death to human beings.

9 (7) "Landowner" means a person owning three acres or more within a proposed protected area;  
 10 and in the case of multiple ownership of land, the owner is only a person whose interest is greater  
 11 than an undivided one-half interest therein or who holds an authorization in writing from one or  
 12 more of the other owners whose interest, when added to the interest of the person, are greater than  
 13 an undivided one-half interest in the land.

14 (8) "Pesticide" includes:

15 (a) "Defoliant" which means any substance or mixture of substances intended for causing the  
 16 leaves or foliage to drop from a plant with or without causing abscission;

17 (b) "Desiccant" which means any substance or mixture of substances intended for artificially  
 18 accelerating the drying of plant tissue;

19 (c) "Fungicide" which means any substance or mixture of substances intended for preventing,  
 20 destroying, repelling or mitigating any fungus;

21 (d) "Herbicide" which means any substance or mixture of substances intended for preventing,  
 22 destroying, repelling or mitigating any weed;

23 (e) "Insecticide" which means any substance or mixture of substances intended for preventing,  
 24 destroying, repelling or mitigating any insects which may be present in any environment whatso-  
 25 ever;

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

28 (g) "Plant regulator" which means any substance or mixture of substances intended, through  
 29 physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise  
 30 alter the behavior of ornamental or crop plants or the produce thereof, but shall not include sub-  
 31 stances to the extent that they are intended as plant nutrients, trace elements, nutritional chemi-  
 32 cals, plant inoculants or soil amendments; or

33 (h) Any substance, or mixture of substances intended to be used for defoliating plants or for  
 34 preventing, destroying, repelling or mitigating all insects, plant fungi, weeds, rodents, predatory  
 35 animals or any other form of plant or animal life which is, or which the department may declare to  
 36 be a pest, which may infest or be detrimental to vegetation, humans, animals, or be present in any  
 37 environment thereof.

38 (9) "Pesticide applicator" or "applicator" means a person who:

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

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

41 (c) Is in direct charge of or supervises the spraying or **other** application of pesticides or oper-  
 42 ates, uses, drives or physically directs propulsion of equipment, apparatus or machinery **during the**  
 43 **spraying or other application**, either on the ground or, **if certified under section 2 of this 2015**  
 44 **Act**, by aircraft[ *in such activity*].

45 (10) "Pesticide consultant" means a person, including governmental employees, who offers or

1 supplies technical advice, supervision, aid or recommendations to the user of pesticides classified  
 2 by the department as restricted-use or highly toxic pesticides, whether licensed as a pesticide dealer  
 3 or not.

4 (11) "Pesticide dealer" means a person who sells, offers for sale, handles, displays or distributes  
 5 any pesticide classified by the department as a restricted-use or highly toxic pesticide.

6 (12) "Pesticide equipment" means any equipment, machinery or device used in the actual appli-  
 7 cation of pesticides, including aircraft and ground spraying equipment.

8 (13) "Pesticide operator" means a person who owns or operates a business engaged in the ap-  
 9 plication of pesticides upon the land or property of another.

10 (14) "Pesticide trainee" means a person who:

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

12 (b) Is working and engaged in a training program under special certificate to qualify as a pes-  
 13 ticide applicator.

14 (15) "Professed standard of quality" means a plain and true statement of the name and per-  
 15 centage of each active ingredient and the total percentage of all inert ingredients contained in any  
 16 pesticide.

17 (16) "Protected area" means an area established under the provisions of this chapter to prohibit  
 18 or restrict the application of pesticides.

19 (17) "Public applicator" means a person who is an employee of the State of Oregon or its  
 20 agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions thereof,  
 21 irrigation districts, drainage districts and public utilities and telecommunications utilities and who  
 22 performs or carries out the work, duties or responsibilities of a pesticide applicator.

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

27 (19) "Registrant" means a person registering any pesticide pursuant to this chapter.

28 (20) "Restricted area" means an area established under the provisions of this chapter to restrict,  
 29 but not prohibit, the application of pesticides.

30 (21) "Restricted-use pesticide" means any pesticide or device which the department has found  
 31 and determined to be so injurious or detrimental to persons, pollinating insects, bees, animals, crops,  
 32 wildlife, land or environment, other than the pests it is intended to prevent, destroy, control or  
 33 mitigate, that additional restrictions are required.

34 (22) "Weed" means any plant which grows where not wanted.

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

36 634.116. (1) A pesticide operator's license, or supplements thereto, shall authorize the licensee  
 37 to engage in one or more of the classes of pest control or pesticide application business prescribed  
 38 by the State Department of Agriculture under ORS 634.306 (2). The department may not issue a  
 39 pesticide operator license to the United States, the State of Oregon or federal, state or local agen-  
 40 cies, instrumentalities, political subdivisions, counties, cities, towns, municipal corporations, irri-  
 41 gation, drainage or other districts or other federal, state or local governmental bodies.

42 (2) During a license period, and after a person has been issued a license to engage in certain  
 43 classes of pest control or pesticide application business during a license period, the department upon  
 44 receiving an additional application and applicable fees, may authorize the licensee to engage in ad-  
 45 ditional classes of pest control or pesticide application business for the remainder of the license

1 period as prescribed in ORS 634.306 (2).

2 (3)(a) The department shall establish a pesticide operator license fee not to exceed \$90 for the  
3 first class of pest control or pesticide application business as prescribed in ORS 634.306 (2) and not  
4 to exceed \$15 for each additional class.

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

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

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

24 (a) Except as required under paragraph (b) of this subsection, the financial responsibility re-  
25 quired by this section shall not apply to damages or injury to crops, real or personal property being  
26 worked upon by the applicant.

27 (b) If the applicant or licensee is to be engaged in the business of controlling or eradicating  
28 structural pests, or pests within a public or private place, or pests within private or public places  
29 where food is served, prepared or processed or where persons are regularly housed, the financial  
30 responsibility required by this section shall apply to damages or injury to real or personal property  
31 being worked upon, as well as all the other real and personal property set forth in this section.

32 (6) The financial responsibility required by subsection (5) of this section must be not less than  
33 \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property damage.

34 (7) Notwithstanding the provisions of ORS chapter 183, if the licensed pesticide operator fails  
35 to maintain the financial responsibility required by subsections (5) and (6) of this section, the license  
36 is automatically suspended until the department again verifies the pesticide operator is in compli-  
37 ance with subsections (5) and (6) of this section. The liability insurance company shall notify the  
38 department in writing at least 30 days prior to any cancellation of an insurance policy required by  
39 this section.

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

43 (9) The department shall return the deposit required by subsection (5) of this section to the  
44 pesticide operator if the pesticide operator at any time establishes exemption from the financial re-  
45 sponsibility requirements under this chapter. After the expiration of two years from the date of an

1 injury, death, loss or damage, the department shall return any deposit remaining to the pesticide  
 2 operator or to the personal representative of the pesticide operator except that the department shall  
 3 not make a return if the department has received notice that an action for damages arising out of  
 4 the provisions of this section has been filed against the pesticide operator for whom the deposit was  
 5 made, and the department has determined that the action is pending or that any judgment resulting  
 6 from the action remains unpaid.

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

13 (11) The department may by rule allow liability insurance policies required by subsections (5)  
 14 and (6) of this section to include deductible clauses of amounts to be determined by the department.

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

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

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

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

27 (i) The land is in a jurisdiction adjacent to property under their ownership, possession, control  
 28 or jurisdiction;

29 (ii) The application is done in conjunction with, or as an extension of, an application of pesti-  
 30 cides to property under their ownership, possession, control or jurisdiction; and

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

33 (b) A public utility or telecommunications utility is not required to obtain a license as a pesti-  
 34 cide operator or to furnish evidence of financial responsibility to the department when applying  
 35 pesticides to property under the ownership, possession or control of the utility.

36 (c) In addition to any application allowed under paragraph (a) of this subsection, a vector con-  
 37 trol district is not required to obtain a license as a pesticide operator or to furnish evidence of fi-  
 38 nancial responsibility to the department when applying pesticides for the prevention, control or  
 39 eradication of a public health vector as defined in ORS 452.010 to property under the ownership,  
 40 possession, control or jurisdiction of another federal, state or local agency, instrumentality, political  
 41 subdivision, county, city, town, municipal corporation, irrigation, drainage or other district or other  
 42 federal, state or local governmental body or of a homeowners association as defined under ORS  
 43 94.550 if the pesticide application is done on a cost recovery, cooperative trade of services or no  
 44 cost basis, and not as a source of profit.

45 (13) Subject to subsection (15) of this section, the employees of the agencies, instrumentalities,

1 subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies or utili-  
 2 ties described in subsection (12) of this section who perform or carry out the work, duties or re-  
 3 sponsibilities of a pesticide applicator are subject to the provisions of this chapter, except they shall  
 4 be issued “public applicator” licenses or, if they carry out the work, duties or responsibilities of a  
 5 pesticide trainee, shall be issued “public trainee” certificates, if they otherwise comply or qualify  
 6 with the provisions of this chapter relating thereto.

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

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

10 (b) Valid and used by the licensee or certificate holder only when applying pesticides as de-  
 11 scribed in subsection (12) of this section.

12 (c) Renewed, suspended or revoked each year in the same manner, under the same provisions  
 13 and at the same time as other pesticide applicator licenses and trainee certificates are renewed,  
 14 suspended or revoked.

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

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

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

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

20 (16) Prior to applying pesticides to land described in subsection (12)(a)(C) of this section, a  
 21 public applicator shall inform the person requesting pesticide application of the possible availability  
 22 of alternative sources of assistance, including sources in the private sector that are registered with  
 23 the department or with industry trade or professional organizations.

24 (17) A federal, state or local agency, instrumentality, political subdivision, county, city, town,  
 25 municipal corporation, irrigation, drainage or other district or other federal, state or local govern-  
 26 mental body may not solicit or advertise for pesticide application business in areas outside its ju-  
 27 risdiction.

28 **SECTION 6.** ORS 634.306 is amended to read:

29 634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agri-  
 30 culture [*is authorized to promulgate regulations necessary*] **may adopt rules** to carry out the pur-  
 31 poses and intent of this chapter, including but not limited to [*the following*] **rules that:**

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

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

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

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

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

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

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

1 (g) Special requirements if the pesticide trainee is to [*apply*] **assist a pesticide applicator**  
2 **certified under section 2 of this 2015 Act in the spraying or other application of** pesticides by  
3 the use of aircraft, and the advisability of allowing participation in federal flight training programs  
4 to be substituted, all or in part, for training requirements under this chapter.

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

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

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

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

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

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

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

20 (b) Laws and regulations of other states.

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

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

26 (6) Designate the conditions under which pesticide operators [*spraying*] **certified under section**  
27 **2 of this 2015 Act to spray or otherwise apply pesticides** by aircraft may reduce, suspend or  
28 terminate the liability insurance required by ORS 634.116, and the periods of time [*therefor*] **for a**  
29 **reduction, suspension or termination**. In this regard, the department may take into consideration:

30 (a) Changes in climate or seasons.

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

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

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

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

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

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

44 (10) Establish, from time to time, advisory groups or committees to assist the department in  
45 formulation of policies, plans or regulations under this chapter. Each member of any such group or

1 committee so established shall be entitled to compensation and expenses as provided in ORS 292.495,  
2 which shall be charged to the department.

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

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

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

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

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

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

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

19 (15) Establish requirements for the reporting of pesticide sales, distribution or use by any per-  
20 son.

21 **SECTION 7.** ORS 634.306, as amended by section 17, chapter 1059, Oregon Laws 1999, is  
22 amended to read:

23 634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agri-  
24 culture [*is authorized to promulgate regulations necessary*] **may adopt rules** to carry out the pur-  
25 poses and intent of this chapter, including but not limited to [*the following*] **rules that:**

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

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

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

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

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

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

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

40 (g) Special requirements if the pesticide trainee is to [*apply*] **assist a pesticide applicator**  
41 **certified under section 2 of this 2015 Act in the spraying or other application of** pesticides by  
42 the use of aircraft, and the advisability of allowing participation in federal flight training programs  
43 to be substituted, all or in part, for training requirements under this chapter.

44 (2) Establish and maintain classifications of the various pesticides and of the various pest con-  
45 trol or pesticide application businesses in order to facilitate the licensing or certification and regu-

1 lation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard  
2 the department may take into consideration:

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

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

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

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

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

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

14 (b) Laws and regulations of other states.

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

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

20 (6) Designate the conditions under which pesticide operators [*spraying*] **certified under section**  
21 **2 of this 2015 Act to spray or otherwise apply pesticides** by aircraft may reduce, suspend or  
22 terminate the liability insurance required by ORS 634.116, and the periods of time [*therefor*] **for a**  
23 **reduction, suspension or termination**. In this regard, the department may take into consideration:

24 (a) Changes in climate or seasons.

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

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

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

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

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

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

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

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

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

45 (13) Establish restrictions, methods and procedures in the storage, transportation, use or appli-

1 cation of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating  
2 insects, bees, animals, crops, wildlife, land or environment.

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

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

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

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

13 **SECTION 8. Notwithstanding section 2 of this 2015 Act, if a person licensed as a pesticide  
14 applicator or public applicator files an application on or before 90 days after the effective  
15 date of this 2015 Act for certification under section 2 of this 2015 Act, the State Department  
16 of Agriculture may allow the person to spray or otherwise apply pesticides by aircraft until  
17 the department refuses or grants the certification.**

18 **SECTION 9. Section 8 of this 2015 Act is repealed January 2, 2017.**

19 **SECTION 10. The amendments to section 2 of this 2015 Act by section 3 of this 2015 Act  
20 become operative January 1, 2017.**

21