

Senate Bill 683

Sponsored by Senator BATES

SUMMARY

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

Requires pesticide operator engaged in pest control or pesticide application business to designate pesticide applicator responsible for overseeing pesticide application activities of business. Makes notice to pesticide operator or overseeing pesticide applicator effective notice to both operator and applicator. Makes overseeing pesticide applicator subject to sanctions for violations by business involving pesticide application. Expands authority to immediately suspend license of pesticide operator and allows immediate suspension of license of overseeing pesticide applicator for faulty, careless, negligent or prohibited pesticide application by business.

Moves existing material regarding public applicators and public trainees to new section and reorganizes.

Removes mental state requirement in prohibition against use of pesticide in manner inconsistent with labeling or recommending use of pesticide inconsistent with labeling.

A BILL FOR AN ACT

1
2 Relating to pesticides; creating new provisions; and amending ORS 634.116 and 634.372.

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

4 **SECTION 1.** ORS 634.116 is amended to read:

5 634.116. (1) A pesticide [*operator's*] **operator** license, or supplements [*thereto*] **to a pesticide**
6 **operator license**, shall authorize the licensee to engage in one or more of the classes of pest control
7 or pesticide application business prescribed by the State Department of Agriculture under ORS
8 634.306 (2). The department may not issue a pesticide operator license to the United States, the
9 State of Oregon or federal, state or local agencies, instrumentalities, political subdivisions, counties,
10 cities, towns, municipal corporations, irrigation, drainage or other districts or other federal, state
11 or local governmental bodies.

12 (2) During a license period, and after a person has been issued a license to engage in certain
13 classes of pest control or pesticide application business during a license period, the department upon
14 receiving an additional application and applicable fees, may authorize the licensee to engage in ad-
15 ditional classes of pest control or pesticide application business for the remainder of the license
16 period as prescribed in ORS 634.306 (2).

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

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

24 [(4) *At least one owner or part owner of the pest control or pesticide application business shall also*
25 *obtain and maintain a pesticide applicator's license if the pesticide operator is a sole proprietorship or*
26 *a partnership. At least one officer or employee shall obtain and maintain a pesticide applicator's license*

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 *if the pesticide operator is a corporation. If a pesticide operator is found to be in violation of this*
2 *subsection, the pesticide operator's license, notwithstanding ORS chapter 183, is automatically sus-*
3 *pending until the pesticide operator is in compliance. If the business is owned by one individual, the*
4 *department shall make no charge for the pesticide applicator license issued to the individual under*
5 *ORS 634.122.]*

6 **(4)(a) A person that engages in a pest control or pesticide application business must, in**
7 **addition to obtaining licensing as a pesticide operator, have a licensed pesticide applicator**
8 **who is designated to be responsible for overseeing the pesticide application activities of the**
9 **business. If the business is a sole proprietorship or a partnership, the overseeing pesticide**
10 **applicator must be an owner or part owner of the business. If the business is owned by an**
11 **association, the overseeing pesticide applicator must be a member of the association. If the**
12 **business is not a sole proprietorship or partnership or owned by an association, the over-**
13 **seeing pesticide applicator must be an officer or employee of the business. If the business is**
14 **a sole proprietorship, the department may not charge the pesticide operator a fee for the**
15 **pesticide applicator license.**

16 **(b) The pesticide operator shall file with the department a written notice, signed by the**
17 **pesticide applicator, acknowledging responsibility for overseeing the pesticide application ac-**
18 **tivities of the pest control or pesticide application business. If a person ceases to be the li-**
19 **icensed pesticide applicator responsible for overseeing the pesticide application activities of**
20 **a business, the business shall cease carrying out pesticide application activities until the**
21 **department has received a new signed notice that identifies a licensed pesticide applicator**
22 **who is responsible for overseeing the pesticide application activities of the business.**

23 **(c) If the department believes that a business conducted by a pesticide operator has ap-**
24 **plied a pesticide in a manner that violates this chapter or department rules for carrying out**
25 **this chapter:**

26 **(A) In addition to any sanctions that the department imposes under this chapter against**
27 **the pesticide operator, the department may impose sanctions under ORS 634.372 and 634.900**
28 **against the overseeing pesticide applicator due to the violation by the business;**

29 **(B) Any notice of the violation provided to the overseeing pesticide applicator identified**
30 **in department records qualifies as notice to the pesticide operator; and**

31 **(C) Any notice of the violation provided to the pesticide operator qualifies as notice to**
32 **the overseeing pesticide applicator.**

33 **(5) If a violation of this chapter involves a faulty, careless, negligent or prohibited appli-**
34 **cation of a pesticide:**

35 **(a) The violation establishes for purposes of ORS 183.430 that the failure to immediately**
36 **suspend the pesticide operator license, and to suspend the license of the pesticide applicator**
37 **designated to be responsible for overseeing the pesticide application activities of the busi-**
38 **ness, would result in serious danger to the public health or safety.**

39 **(b) Any oral or written notice by the department informing the pesticide operator or the**
40 **overseeing pesticide applicator that the violation involved a faulty, careless, negligent or**
41 **prohibited application is a notice setting forth specific reasons to suspend or refuse renewal**
42 **of a license without prior hearing.**

43 **(c) Upon giving notice of the violation as provided in subsection (4) of this section the**
44 **department shall:**

45 **(A) Immediately suspend the license of the pesticide operator until the department de-**

1 **termines that the business is being conducted in compliance with this chapter and depart-**
2 **ment rules; and**

3 **(B) Immediately suspend the license of the overseeing pesticide applicator until the de-**
4 **partment determines that the business is being conducted in compliance with this chapter**
5 **and department rules.**

6 [(5)] (6) The department shall not issue or renew a pesticide [operator's] **operator** license until
7 the applicant or licensee has furnished evidence to the department, in the form of a public liability
8 policy issued by an insurance company qualified to do business in Oregon, protecting the applicant
9 or licensee against liability for injury or death to persons and loss of or damage to property re-
10 sulting from the application of pesticides, or in lieu of a policy, has furnished a deposit of cash,
11 surety bond or other evidence of financial responsibility acceptable to the department that may be
12 applied by the department to the payment of damages resulting from operator liability. However:

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

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

21 [(6)] (7) The financial responsibility required by subsection [(5)] (6) of this section must be not
22 less than \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property
23 damage.

24 [(7)] (8) Notwithstanding the provisions of ORS chapter 183, if the licensed pesticide operator
25 fails to maintain the financial responsibility required by subsections [(5) and] (6) **and** (7) of this
26 section, the license is automatically suspended until the department again verifies the pesticide op-
27 erator is in compliance with subsections [(5) and] (6) **and** (7) of this section. The liability insurance
28 company shall notify the department in writing at least 30 days prior to any cancellation of an in-
29 surance policy required by this section.

30 [(8)] (9) Notwithstanding the provisions of ORS 105.810 and 105.815 or other laws to the con-
31 trary, the amount of damages for which a pesticide operator or pesticide applicator is liable as a
32 result of use of pesticides, or financial responsibility for the same is limited to actual damages only.

33 [(9)] (10) The department shall return the deposit required by subsection [(5)] (6) of this section
34 to the pesticide operator if the pesticide operator at any time establishes exemption from the fi-
35 nancial responsibility requirements under this chapter. After the expiration of two years from the
36 date of an injury, death, loss or damage, the department shall return any deposit remaining to the
37 pesticide operator or to the personal representative of the pesticide operator except that the de-
38 partment shall not make a return if the department has received notice that an action for damages
39 arising out of the provisions of this section has been filed against the pesticide operator for whom
40 the deposit was made, and the department has determined that the action is pending or that any
41 judgment resulting from the action remains unpaid.

42 [(10)] (11) If the pesticide operator is to spray by aircraft, then the department, in addition to
43 other provisions of this section relating to financial responsibility, may by rule allow aircraft pesti-
44 cide operators to reduce, suspend or terminate the liability insurance, applicable to spraying by
45 aircraft, and required by subsections [(5) and] (6) **and** (7) of this section during certain periods of

1 the year.

2 [(11)] (12) The department may by rule allow liability insurance policies required by subsections
3 [(5) and] (6) **and** (7) of this section to include deductible clauses of amounts to be determined by the
4 department.

5 [(12)(a) *The United States, the State of Oregon or federal, state or local agencies, instrumentalities,*
6 *political subdivisions, counties, cities, towns, municipal corporations, irrigation, drainage or other dis-*
7 *tricts or other federal, state or local governmental bodies are not required to obtain a license as a*
8 *pesticide operator or to furnish evidence of financial responsibility to the department when:]*

9 [(A) *Applying pesticides to property under their ownership, possession, control or jurisdiction;*]

10 [(B) *Applying pesticides pursuant to an order issued by the department for purposes of controlling*
11 *or eradicating noxious weeds or pests; or]*

12 [(C) *Applying pesticides to property under the ownership, possession, control or jurisdiction of*
13 *another federal, state or local agency, instrumentality, political subdivision, county, city, town, municip-*
14 *al corporation, irrigation, drainage or other district or other federal, state or local governmental body*
15 *or of a homeowners association as defined under ORS 94.550 if:]*

16 [(i) *The land is in a jurisdiction adjacent to property under their ownership, possession, control*
17 *or jurisdiction;*]

18 [(ii) *The application is done in conjunction with, or as an extension of, an application of pesticides*
19 *to property under their ownership, possession, control or jurisdiction; and]*

20 [(iii) *The pesticide application is done on a cost recovery, cooperative trade of services or no cost*
21 *basis, and not as a source for profit.]*

22 [(b) *A public utility or telecommunications utility is not required to obtain a license as a pesticide*
23 *operator or to furnish evidence of financial responsibility to the department when applying pesticides*
24 *to property under the ownership, possession or control of the utility.]*

25 [(c) *In addition to any application allowed under paragraph (a) of this subsection, a vector control*
26 *district is not required to obtain a license as a pesticide operator or to furnish evidence of financial*
27 *responsibility to the department when applying pesticides for the prevention, control or eradication of*
28 *a public health vector as defined in ORS 452.010 to property under the ownership, possession, control*
29 *or jurisdiction of another federal, state or local agency, instrumentality, political subdivision, county,*
30 *city, town, municipal corporation, irrigation, drainage or other district or other federal, state or local*
31 *governmental body or of a homeowners association as defined under ORS 94.550 if the pesticide ap-*
32 *plication is done on a cost recovery, cooperative trade of services or no cost basis, and not as a source*
33 *of profit.]*

34 [(13) *Subject to subsection (15) of this section, the employees of the agencies, instrumentalities,*
35 *subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies or utilities*
36 *described in subsection (12) of this section who perform or carry out the work, duties or responsibilities*
37 *of a pesticide applicator are subject to the provisions of this chapter, except they shall be issued “public*
38 *applicator” licenses or, if they carry out the work, duties or responsibilities of a pesticide trainee, shall*
39 *be issued “public trainee” certificates, if they otherwise comply or qualify with the provisions of this*
40 *chapter relating thereto.]*

41 [(14) *The public applicator license or public trainee certificate shall be:]*

42 [(a) *Issued by the department upon payment of the fee for the pesticide applicator license or pesti-*
43 *cide trainee certificate.]*

44 [(b) *Valid and used by the licensee or certificate holder only when applying pesticides as described*
45 *in subsection (12) of this section.]*

1 *[(c) Renewed, suspended or revoked each year in the same manner, under the same provisions and*
 2 *at the same time as other pesticide applicator licenses and trainee certificates are renewed, suspended*
 3 *or revoked.]*

4 *[(15) The provisions of subsection (13) of this section apply only to:]*

5 *[(a) The application of restricted-use pesticides;]*

6 *[(b) The application of any pesticide by using a machine-powered device; or]*

7 *[(c) The application of any pesticide at the campus of a school, as defined in ORS 634.700, by an*
 8 *employee of the school.]*

9 *[(16) Prior to applying pesticides to land described in subsection (12)(a)(C) of this section, a public*
 10 *applicator shall inform the person requesting pesticide application of the possible availability of alter-*
 11 *native sources of assistance, including sources in the private sector that are registered with the de-*
 12 *partment or with industry trade or professional organizations.]*

13 *[(17) A federal, state or local agency, instrumentality, political subdivision, county, city, town, mu-*
 14 *nicipal corporation, irrigation, drainage or other district or other federal, state or local governmental*
 15 *body may not solicit or advertise for pesticide application business in areas outside its jurisdiction.]*

16 **SECTION 2.** Section 3 of this 2015 Act is added to and made a part of ORS chapter 634.

17 **SECTION 3.** (1) The United States, the State of Oregon or federal, state or local agencies,
 18 instrumentalities, political subdivisions, counties, cities, towns, municipal corporations, irri-
 19 gation, drainage or other districts or other federal, state or local governmental bodies are
 20 not required to obtain a license as a pesticide operator or to furnish evidence of financial
 21 responsibility to the State Department of Agriculture when:

22 (a) Applying pesticides to property under their ownership, possession, control or juris-
 23 diction;

24 (b) Applying pesticides pursuant to an order issued by the department for purposes of
 25 controlling or eradicating noxious weeds or pests; or

26 (c) Applying pesticides to property under the ownership, possession, control or jurisdic-
 27 tion of another federal, state or local agency, instrumentality, political subdivision, county,
 28 city, town, municipal corporation, irrigation, drainage or other district or other federal, state
 29 or local governmental body or of a homeowners association as defined under ORS 94.550 if:

30 (A) The land is in a jurisdiction adjacent to property under their ownership, possession,
 31 control or jurisdiction;

32 (B) The application is done in conjunction with, or as an extension of, an application of
 33 pesticides to property under their ownership, possession, control or jurisdiction; and

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

36 (2) Prior to applying pesticides to land described in subsection (1)(c) of this section, a
 37 public applicator shall inform the person requesting pesticide application of the possible
 38 availability of alternative sources of assistance, including sources in the private sector that
 39 are registered with the department or with industry trade or professional organizations.

40 (3) In addition to any application allowed under subsection (1) of this subsection, a vector
 41 control district is not required to obtain a license as a pesticide operator or to furnish evi-
 42 dence of financial responsibility to the department when applying pesticides for the pre-
 43 vention, control or eradication of a public health vector as defined in ORS 452.010 to property
 44 under the ownership, possession, control or jurisdiction of another federal, state or local
 45 agency, instrumentality, political subdivision, county, city, town, municipal corporation, ir-

1 **rigation, drainage or other district or other federal, state or local governmental body or of**
 2 **a homeowners association as defined under ORS 94.550 if the pesticide application is done on**
 3 **a cost recovery, cooperative trade of services or no cost basis, and not as a source of profit.**

4 **(4) A federal, state or local agency, instrumentality, political subdivision, county, city,**
 5 **town, municipal corporation, irrigation, drainage or other district or other federal, state or**
 6 **local governmental body may not solicit or advertise for pesticide application business in**
 7 **areas outside its jurisdiction.**

8 **(5) A public utility or telecommunications utility is not required to obtain a license as a**
 9 **pesticide operator or to furnish evidence of financial responsibility to the department when**
 10 **applying pesticides to property under the ownership, possession or control of the utility.**

11 **(6) Subject to subsection (7) of this section, the employees of the agencies, instrument-**
 12 **alities, subdivisions, counties, cities, towns, municipal corporations, districts, governmental**
 13 **bodies or utilities described in this section who perform or carry out the work, duties or**
 14 **responsibilities of a pesticide applicator are subject to the provisions of this chapter, except**
 15 **they shall be issued:**

16 **(a) Public applicator licenses if they otherwise comply or qualify with the provisions of**
 17 **this chapter relating to pesticide applicators; or**

18 **(b) Public trainee certificates if they carry out the work, duties or responsibilities of a**
 19 **pesticide trainee and otherwise comply or qualify with the provisions of this chapter relating**
 20 **to pesticide trainees.**

21 **(7) The provisions of subsection (6) of this section apply only to:**

22 **(a) The application of restricted-use pesticides;**

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

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

26 **(8) The public applicator license or public trainee certificate shall be:**

27 **(a) Issued by the department upon payment of the fee for the pesticide applicator license**
 28 **or pesticide trainee certificate.**

29 **(b) Valid and used by the licensee or certificate holder only when applying pesticides as**
 30 **described in this section.**

31 **(c) Renewed, suspended or revoked each year in the same manner, under the same pro-**
 32 **visions and at the same time as other pesticide applicator licenses and trainee certificates**
 33 **are renewed, suspended or revoked.**

34 **SECTION 4. ORS 634.372 is amended to read:**

35 **634.372. A person may not:**

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

38 **(2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless**
 39 **pesticide [or any pesticide inconsistent with its labeling], or as a pesticide consultant or dealer, in-**
 40 **entionally or willfully recommend or distribute [such pesticides] a worthless pesticide.**

41 **(3) As a pesticide applicator or operator, use a pesticide in a manner inconsistent with**
 42 **its labeling, or as a pesticide consultant, recommend a use of a pesticide that is inconsistent**
 43 **with its labeling.**

44 **[(3)] (4) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device**
 45 **or equipment.**

- 1 [(4)] (5) Perform pesticide application activities in a faulty, careless or negligent manner.
- 2 [(5)] (6) Refuse or neglect to prepare and maintain records required to be kept by the provisions
3 of this chapter.
- 4 [(6)] (7) Make false, misleading or fraudulent records, reports or application forms required by
5 the provisions of this chapter.
- 6 [(7)] (8) Operate pesticide applicators' apparatus, machinery or equipment without a licensed
7 pesticide applicator or certified private applicator performing the actual application, or supervising
8 such application if such is performed by a pesticide trainee. This prohibition does not apply to the
9 operation of tractors, trucks or other vehicular equipment used only under the supervision of a
10 certified private applicator.
- 11 [(8)] (9) As a pesticide applicator, work or engage in the application of any classes of pesticides
12 without first obtaining and maintaining a pesticide [*applicator's*] **applicator** license, or apply pesti-
13 cides that are not specifically authorized by such license.
- 14 [(9)] (10) As a pesticide operator, engage in the business of, or represent or advertise as being
15 in the business of, applying pesticides upon the land or property of another, without first obtaining
16 and maintaining a pesticide [*operator's*] **operator** license. The operator also may not engage in a
17 class of pesticide application business that is not specifically authorized by license issued by the
18 State Department of Agriculture. The operator also may not employ or use any person to apply or
19 spray pesticides who is not a licensed pesticide applicator or pesticide trainee.
- 20 [(10)] (11) As a pesticide trainee, work or engage in the application of any class of pesticides
21 without first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compli-
22 ance with the provisions of this chapter.
- 23 [(11)] (12) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining
24 and maintaining a pesticide dealer's license.
- 25 [(12)] (13) Act as, or purport to be, a pesticide consultant without first obtaining and maintain-
26 ing a pesticide consultant's license.
- 27 [(13)] (14) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricul-
28 tural, horticultural or forest crops on land owned or leased by the person without first obtaining
29 and maintaining a private applicator certificate.
- 30 [(14)] (15) As a person described in ORS 634.106 (5), use power-driven pesticide application
31 equipment or devices (use hand or backpack types only), or use or apply any pesticide other than
32 those prescribed by the department.
- 33 [(15)] (16) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.
- 34 [(16)] (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.
- 35 [(17)] (18) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been
36 registered as required by ORS 634.016.
- 37 [(18)] (19) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
38 arsenic or any highly toxic fluoride that is not distinctly colored.
- 39 [(19)] (20) Distribute, sell or offer for sale any pesticide except in the manufacturer's original
40 unbroken package.
- 41 [(20)] (21) Make application of pesticides, by aircraft or otherwise, within a protected or re-
42 stricted area without first obtaining a permit for such application from the committee of the pro-
43 tected or restricted area in which the application is to be made. The person also may not make such
44 application contrary to the conditions or terms of the permit so issued.
- 45 [(21)] (22) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with re-

1 gard to plant damage as determined by the department, without first obtaining a permit for such use
2 as provided in ORS 634.322 (10).

3 [(22)] (23) Sell, use or remove any pesticide or device subjected to a “stop sale, use or
4 removal” order until the pesticide or device has been released therefrom as provided in ORS 634.322
5 (3).

6 [(23)] (24) Fail to comply with any provision or requirement of sections 2 to 9, chapter 1059,
7 Oregon Laws 1999, or rules adopted thereunder.

8 **SECTION 5.** ORS 634.372, as amended by section 18, chapter 1059, Oregon Laws 1999, and
9 section 4, chapter 307, Oregon Laws 2001, is amended to read:

10 634.372. A person may not:

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

13 (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless
14 pesticide [*or any pesticide inconsistent with its labeling*], or as a pesticide consultant or dealer, **in-**
15 **tentionally or willfully** recommend or distribute [*such pesticides*] **a worthless pesticide.**

16 (3) **As a pesticide applicator or operator, use a pesticide in a manner inconsistent with**
17 **its labeling, or as a pesticide consultant, recommend a use of a pesticide that is inconsistent**
18 **with its labeling.**

19 [(3)] (4) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device
20 or equipment.

21 [(4)] (5) Perform pesticide application activities in a faulty, careless or negligent manner.

22 [(5)] (6) Refuse or neglect to prepare and maintain records required to be kept by the provisions
23 of this chapter.

24 [(6)] (7) Make false, misleading or fraudulent records, reports or application forms required by
25 the provisions of this chapter.

26 [(7)](8) Operate pesticide applicators’ apparatus, machinery or equipment without a licensed
27 pesticide applicator or certified private applicator performing the actual application, or supervising
28 such application if such is performed by a pesticide trainee. This prohibition does not apply to the
29 operation of tractors, trucks or other vehicular equipment used only under the supervision of a
30 certified private applicator.

31 [(8)] (9) As a pesticide applicator, work or engage in the application of any classes of pesticides
32 without first obtaining and maintaining a pesticide [*applicator’s*] **applicator** license, or apply pesti-
33 cides that are not specifically authorized by such license.

34 [(9)] (10) As a pesticide operator, engage in the business of, or represent or advertise as being
35 in the business of, applying pesticides upon the land or property of another, without first obtaining
36 and maintaining a pesticide [*operator’s*] **operator** license. The operator also may not engage in a
37 class of pesticide application business that is not specifically authorized by license issued by the
38 State Department of Agriculture. The operator also may not employ or use any person to apply or
39 spray pesticides who is not a licensed pesticide applicator or pesticide trainee.

40 [(10)] (11) As a pesticide trainee, work or engage in the application of any class of pesticides
41 without first obtaining and maintaining a pesticide trainee’s certificate and is otherwise in compli-
42 ance with the provisions of this chapter.

43 [(11)] (12) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining
44 and maintaining a pesticide dealer’s license.

45 [(12)] (13) Act as, or purport to be, a pesticide consultant without first obtaining and maintain-

1 ing a pesticide consultant’s license.

2 [(13)] (14) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricul-
 3 tural, horticultural or forest crops on land owned or leased by the person without first obtaining
 4 and maintaining a private applicator certificate.

5 [(14)] (15) As a person described in ORS 634.106 (5), use power-driven pesticide application
 6 equipment or devices (use hand or backpack types only), or use or apply any pesticide other than
 7 those prescribed by the department.

8 [(15)] (16) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

9 [(16)] (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.

10 [(17)] (18) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been
 11 registered as required by ORS 634.016.

12 [(18)] (19) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
 13 arsenic or any highly toxic fluoride that is not distinctly colored.

14 [(19)] (20) Distribute, sell or offer for sale any pesticide except in the manufacturer’s original
 15 unbroken package.

16 [(20)] (21) Make application of pesticides, by aircraft or otherwise, within a protected or re-
 17 stricted area without first obtaining a permit for such application from the committee of the pro-
 18 tected or restricted area in which the application is to be made. The person also may not make such
 19 application contrary to the conditions or terms of the permit so issued.

20 [(21)] (22) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with re-
 21 gard to plant damage as determined by the department, without first obtaining a permit for such use
 22 as provided in ORS 634.322 (10).

23 [(22)] (23) Sell, use or remove any pesticide or device subjected to a “stop sale, use or
 24 removal” order until the pesticide or device has been released therefrom as provided in ORS 634.322
 25 (3).

26 **SECTION 6. Notwithstanding the amendments to ORS 634.116 by section 1 of this 2015**
 27 **Act, a pesticide operator is not required to file a written notice with the State Department**
 28 **of Agriculture identifying the licensed pesticide applicator who is designated to be responsible**
 29 **for overseeing the pesticide application activities of the pesticide operator prior to 90 days**
 30 **after the effective date of this 2015 Act.**

31 **SECTION 7. The amendments to ORS 634.372 by section 4 of this 2015 Act apply to pes-**
 32 **ticide operator, applicator, consultant and dealer actions that occur on or after the effective**
 33 **date of this 2015 Act.**

34