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OREGONIANS FOR FOOD & SHELTER

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A non-profit coalition to promote the efficient production of quality food and fiber while protecting human health, personal property and the environment, through the integrated, responsible use of pest management products, soil nutrients and biotechnology.

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SB 500 -- Relating to reports of loss arising from pesticides

22 March 2017

Testimony to the Senate Environment and Natural Resources Committee

Honorable Committee Members:

Oregonians for Food & Shelter (OFS) is a grassroots coalition of farmers, foresters, and other technology users focused on natural resource issues involving pesticides, fertilizer, and biotechnology. We are writing you today in opposition to Senate Bill 500. We thank you for the opportunity to submit comments on this important issue.

Senate Bill 500 would eliminate the requirement to submit a timely "Report of Loss" form to the Oregon Department of Agriculture (ODA) prior to filing a complaint regarding a pesticide application in court. We are opposed to the bill because filing a report of loss form is a simple step which begins to capture the facts of the case, initiates an ODA investigation, and notifies a party that there is an alleged misapplication.

Not an Overly Burdensome Requirement

Under current law, a person must file a timely Report of Loss with the Department of Agriculture if they intend to file a lawsuit for damages. The Report of Loss must be filed, "within 60 days from the occurrence of the loss, within 60 days from the date the loss is discovered, or, if the loss is alleged to have occurred out of damage to growing crops, before the time when 50 percent of the crop is harvested..."

The Report of Loss form must be sent to ODA as well as the landowner and applicator. This is a simple step which informs everybody involved of the concern around a particular application, and can begin the fact-finding process.

Timing is Important for Fact Gathering

The filing of a Report of Loss form in a timely manner gives the Oregon Department of Agriculture an opportunity to initiate an investigation into the extent and nature of the damage alleged and gives the applicator an opportunity to conduct their own investigation in anticipation of litigation.

It is important that both ODA investigators, and the applicator are able to collect samples in a timely manner to help determine whether an illegal pesticide application took place.

When it comes to collecting samples for testing, time is of the essence. Pesticides can break down quickly in the environment so collecting samples as close to the application date as possible is key to obtaining accurate results.

Removing the requirement for the timely filing of a Report of Loss could result in litigation being filed months, or even years, after the alleged misapplication when little physical evidence would still be available. This does not benefit either party, and creates more complicated litigation.

Please Vote NO on SB 500

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Dahlman", with a long horizontal flourish extending to the right.

Scott J. Dahlman
Policy Director