



TESTIMONY

Senate Committee on Environment & Natural Resources

March 22, 2017

Oregon Farm Bureau Opposes SB 500

The Oregon Farm Bureau Federation (OFB) appreciates the opportunity to provide testimony in opposition to SB 500. As a reference, OFB is the state's largest grassroots general agriculture association, representing 7,000 member families actively engaged in farming and ranching.

SB 500 would eliminate the requirement for a person who believes they have been impacted by a pesticide application to report those impacts to the state and the applicator in a timely manner before they can sue the landowner over the application. This requirement is fundamental to ensuring the effectiveness of our pesticide program and provides both parties to a potential action with adequate information to effectively navigate a legal dispute.

Currently, Oregon law requires an individual who believes they have been the victim of an illegal pesticide application to report their concerns within 60 days to the (a) Oregon Department of Agriculture (ODA), (b) pesticide applicator, and (c) person for whom the pesticide was applied in order to be able to bring a lawsuit regarding the application. The "Report of Loss" requirement ensures that ODA is able to investigate alleged illegal applications in a timely manner and gives all parties the opportunity to conduct their own investigation in anticipation of litigation. A complainant does not have to know all the particulars of what happened in order to file a report of loss. The report can be filed based on information known at the time, and then both parties can receive the benefit of information gained through ODA's subsequent investigation.

Without a "Report of Loss," pesticide claims may devolve into "he said/she said" disputes with conflicting and weak evidence. Perhaps more troubling, it would allow the person claiming the loss to sit on their claim for up to six years without alerting the applicator, and then file a lawsuit long after all evidence of the application is gone. This does not benefit either party, and it creates more complicated and expensive litigation.

OFB supports the ability to seek damages for any losses from illegal pesticide use. However, it must be on a level playing field that does not encourage frivolous litigation, where both parties have the chance to conduct an investigation—and benefit from the state's investigation—before a lawsuit is filed. To do otherwise invites baseless litigation

and jeopardizes the effectiveness of ODA's investigative authority under its pesticide program.

OFB respectfully asks the Committee to vote "NO" on SB 500. We believe that the "Report of Loss" requirement is a critical step in establishing the facts in a pesticide dispute before going to court.