

Senate Bill 500

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

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**.

Eliminates requirement to timely report to State Department of Agriculture loss arising out of use or application of pesticide before commencing action to recover for loss.

A BILL FOR AN ACT

1
2 Relating to reports of loss arising from pesticides; creating new provisions; amending ORS 634.172;
3 and repealing ORS 12.272.

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

5 **SECTION 1.** ORS 634.172 is amended to read:

6 634.172. *[(1) No action against a landowner, person for whom the pesticide was applied or pesticide*
7 *operator arising out of the use or application of any pesticide shall be commenced unless, within 60*
8 *days from the occurrence of the loss, within 60 days from the date the loss is discovered, or, if the loss*
9 *is alleged to have occurred out of damage to growing crops, before the time when 50 percent of the crop*
10 *is harvested, the person commencing the action:]*

11 *[(a) Files a report of the alleged loss with the State Department of Agriculture;]*

12 *[(b) Mails or personally delivers to the landowner or pesticide operator who is allegedly responsible*
13 *for the loss a true copy of the report provided for under paragraph (a) of this subsection; and]*

14 *[(c) Mails or personally delivers to the person for whom the pesticide was applied a true copy of*
15 *the report required under paragraph (a) of this subsection if that person is not the person commencing*
16 *the action.]*

17 **(1) Notwithstanding ORS 634.006, as used in this section, "landowner" includes any person**
18 **shown by records of the county to be the owner of land or having such land under contract**
19 **for purchase.**

20 **(2) A person who claims to have sustained loss arising out of the use or application of**
21 **any pesticide by another may file a report of loss with the State Department of Agriculture**
22 **within 60 days from the occurrence of the loss, within 60 days from the date the loss is dis-**
23 **covered or, if the loss is alleged to have occurred out of damage to growing crops, before the**
24 **time when 50 percent of the crop is harvested. A person filing a report with the department**
25 **shall also mail or personally deliver a true copy of the report of loss to the landowner or**
26 **pesticide operator who is allegedly responsible for the loss and, if other than the person filing**
27 **the report, to the person for whom the pesticide was applied.**

28 *[(2)]* **(3) [Any] A person who claims to have sustained [any] loss arising out of the use or appli-**
29 **cation of any pesticide by any state agency, county or municipality may file a report of loss with**
30 **the department, and mail or personally deliver a true copy of such report of loss to the state agency,**

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 county or municipality allegedly responsible, within the time provided in subsection [(1)] (2) of this
2 section.

3 [(3)] (4) Upon receiving a report of loss as provided by this section:

4 (a) The department may investigate, examine and determine the extent and nature of the damage
5 alleged to have been caused to property or crops. The department [shall] **may** not determine the
6 source of the damage, the person who may have caused the damage or the financial extent of the
7 loss or damage. The department shall prepare and file in its office a report of the investigation,
8 examination and determination. Copies of the report made by the department may be given upon
9 request to persons who are financially interested in the matter. **The department may suspend**
10 **activities under this paragraph if the department discovers that the person filing a report**
11 **of loss has not mailed or personally delivered a true copy as required.**

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

14 [(4)] (5) Upon receiving a request from any person, other than a person who may file a report
15 of loss [as provided by subsection (1) or (2) of] **under** this section, the department may investigate,
16 examine and determine the extent and nature of damage alleged to have been caused to property
17 or crops arising out of the use or application of any pesticide by any other person, [provided that
18 the person making such request] **if the requester** reimburses the department for its work. The de-
19 partment [shall] **may** not determine the source of the damage, the person who may have caused the
20 damage or the financial extent of the loss or damage. The department shall prepare and file in its
21 office a report of the investigation, examination and determination. Copies of the report made by the
22 department may be given upon request to persons who are financially interested in the matter.

23 [(5)] (6) Nothing in this section shall be construed as a waiver by the State of Oregon or any
24 state agency, county or municipality of any immunity against suit that otherwise may exist.

25 [(6) Notwithstanding ORS 634.006, as used in this section, "landowner" includes any person shown
26 by records of the county to be the owner of land or having such land under contract for purchase.]

27 **SECTION 2. ORS 12.272 is repealed.**

28 **SECTION 3. The amendments to ORS 634.172 by section 1 of this 2017 Act and the repeal**
29 **of ORS 12.272 by section 2 of this 2017 Act apply to an action commenced on or after the**
30 **effective date of this 2017 Act against a landowner, pesticide operator or person for whom**
31 **pesticide was applied and arising out of the use or application of pesticide.**

32