

HB 3058-4
(LC 3963)
4/8/19 (CDT/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Representative Brian Clem)

**PROPOSED AMENDMENTS TO
HOUSE BILL 3058**

1 In line 2 of the printed bill, after “pesticides” insert “; creating new pro-
2 visions; amending ORS 634.006 and 634.326; and declaring an emergency”.

3 Delete lines 4 through 22 and insert:

4 **“SECTION 1.** ORS 634.006 is amended to read:

5 “634.006. As used in this chapter unless the context requires otherwise:

6 “(1) ‘Antidote’ means a practical immediate treatment in case of poisoning
7 and includes first-aid treatment.

8 “(2) ‘Brand’ or ‘trademark’ means any word, name, symbol or any combi-
9 nation thereof adopted or used by a person to identify pesticides manufac-
10 tured, compounded, delivered, distributed, sold or offered for sale in this
11 state and to distinguish them from pesticides manufactured, compounded,
12 delivered, distributed, sold or offered for sale by others.

13 “(3) ‘Department’ means the State Department of Agriculture.

14 “(4) ‘Device’ means any instrument or contrivance containing pesticides
15 or other chemicals intended for trapping, destroying, repelling or mitigating
16 insects or rodents or destroying, repelling or mitigating fungi, nematodes or
17 such other pests as may be designated by the department, but does not in-
18 clude equipment used for the application of pesticides or other chemicals
19 when sold separately from such pesticides or chemicals.

20 “(5) ‘Highly toxic’ means a pesticide or device determined by the depart-
21 ment to be capable of causing severe injury, disease or death to human be-

1 ings.

2 “(6) ‘Landowner’ means a person:

3 “(a) Owning three acres or more within a proposed protected area; and

4 “(b) In the case of multiple ownership of land:

5 “(A) Whose interest is greater than an undivided one-half interest in the
6 land; or

7 “(B) Who holds an authorization in writing from one or more of the other
8 owners whose interest, when added to the interest of the person, are greater
9 than an undivided one-half interest in the land.

10 “(7) ‘Person’ means:

11 “(a) A person as defined in ORS 174.100;

12 “(b) A public body as defined in ORS 174.109; and

13 “(c) The federal government or any of its agencies.

14 “(8) ‘Pesticide’ includes:

15 “(a) ‘Defoliant’ which means any substance or mixture of substances in-
16 tended for causing the leaves or foliage to drop from a plant with or without
17 causing abscission;

18 “(b) ‘Desiccant’ which means any substance or mixture of substances in-
19 tended for artificially accelerating the drying of plant tissue;

20 “(c) ‘Fungicide’ which means any substance or mixture of substances in-
21 tended for preventing, destroying, repelling or mitigating any fungus;

22 “(d) ‘Herbicide’ which means any substance or mixture of substances in-
23 tended for preventing, destroying, repelling or mitigating any weed;

24 “(e) ‘Insecticide’ which means any substance or mixture of substances in-
25 tended for preventing, destroying, repelling or mitigating any insects which
26 may be present in any environment whatsoever;

27 “(f) ‘Nematocide’ which means any substance or mixture of substances
28 intended for preventing, destroying, repelling or mitigating nematodes;

29 “(g) ‘Plant regulator’ which means any substance or mixture of substances
30 intended, through physiological action, to accelerate or retard the rate of

1 growth or rate of maturation or to otherwise alter the behavior of
2 ornamental or crop plants or the produce thereof, but does not include sub-
3 stances to the extent that they are intended as plant nutrients, trace ele-
4 ments, nutritional chemicals, plant inoculants or soil amendments; or

5 “(h) Any substance, or mixture of substances intended to be used for
6 defoliating plants or for preventing, destroying, repelling or mitigating all
7 insects, plant fungi, weeds, rodents, predatory animals or any other form of
8 plant or animal life which is, or which the department declares to be a pest,
9 which may infest or be detrimental to vegetation, humans, animals, or be
10 present in any environment thereof.

11 “(9) ‘Pesticide applicator’ or ‘applicator’ means an individual who:

12 “(a) Is spraying or applying pesticides for others;

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

15 “(c) Is in direct charge of or supervises the spraying or other application
16 of pesticides or operates, uses, drives or physically directs propulsion of
17 equipment, apparatus or machinery during the spraying or other application
18 of pesticides, either on the ground or, if certified under ORS 634.128, by
19 aircraft.

20 “(10) ‘Pesticide consultant’ means a person who offers or supplies techni-
21 cal advice, supervision, aid or recommendations to the user of pesticides
22 classified by the department as restricted-use or highly toxic pesticides,
23 whether licensed as a pesticide dealer or not.

24 “(11) ‘Pesticide dealer’ means a person who sells, offers for sale, handles,
25 displays or distributes any pesticide classified by the department as a
26 restricted-use or highly toxic pesticide.

27 “(12) ‘Pesticide equipment’ means any equipment, machinery or device
28 used in the actual application of pesticides, including aircraft and ground
29 spraying equipment.

30 “(13) ‘Pesticide operator’ means a person who owns or operates a business

1 engaged in the application of pesticides upon the land or property of another.

2 “(14) **‘Pesticide retailer’ means a person who sells, offers for sale,**
3 **handles, displays or distributes pesticides, but does not sell, offer for**
4 **sale, handle, display or distribute any pesticide classified by the de-**
5 **partment as a restricted-use or highly toxic pesticide.**

6 “[14] (15) ‘Pesticide trainee’ means an individual who:

7 “(a) Is employed by a pesticide operator; and

8 “(b) Is working and engaged in a training program under special certif-
9 icate to qualify as a pesticide applicator.

10 “[15] (16) ‘Private applicator’ means an individual who uses or super-
11 vises the use of any pesticide, classified by the department as a restricted-use
12 or highly toxic pesticide, for the purpose of producing agricultural commod-
13 ities or forest crops on land owned or leased by the individual or the em-
14 ployer of the individual.

15 “[16] (17) ‘Professed standard of quality’ means a plain and true state-
16 ment of the name and percentage of each active ingredient and the total
17 percentage of all inert ingredients contained in any pesticide.

18 “[17] (18) ‘Protected area’ means an area established under the pro-
19 visions of this chapter to prohibit or restrict the application of pesticides.

20 “[18] (19) ‘Public applicator’ means an individual who is an employee
21 of the State of Oregon or its agencies, counties, cities, municipal corpo-
22 rations, other governmental bodies or subdivisions thereof, irrigation dis-
23 tricts, drainage districts and public utilities and telecommunications utilities
24 and who performs or carries out the work, duties or responsibilities of a
25 pesticide applicator.

26 “[19] (20) ‘Public trainee’ means an individual who is an employee of the
27 State of Oregon or its agencies, counties, cities, municipal corporations,
28 other governmental bodies or subdivisions thereof, irrigation districts,
29 drainage districts and public utilities and telecommunications utility and
30 who performs or carries out the work, duties or responsibilities of a pesticide

1 trainee.

2 “[20] (21) ‘Registrant’ means a person registering any pesticide pursuant
3 to this chapter.

4 “[21] (22) ‘Restricted area’ means an area established under the pro-
5 visions of this chapter to restrict, but not prohibit, the application of pesti-
6 cides.

7 “[22] (23) ‘Restricted-use pesticide’ means any pesticide or device that
8 the department has found and determined to be so injurious or detrimental
9 to humans, pollinating insects, bees, animals, crops, wildlife, land or envi-
10 ronment, other than the pests it is intended to prevent, destroy, control or
11 mitigate, that additional restrictions are required.

12 “[23] (24) ‘Weed’ means any plant that grows where not wanted.

13 **“SECTION 2. Section 3 of this 2019 Act is added to and made a part
14 of ORS chapter 634.**

15 **“SECTION 3. (1) A person who sells, offers for sale, handles, dis-
16 plays or distributes pesticides, but does not sell, offer for sale, handle,
17 display or distribute any pesticides that the State Department of Ag-
18 riculture classifies as a restricted-use or highly toxic pesticide, must
19 possess a valid pesticide retailer license issued by the department.**

20 **“(2) The department shall establish the annual license fee for a
21 pesticide retailer license by rule, to be not less than \$20 or more than
22 \$75. If the person engages in the selling or offering of pesticides
23 through more than one sales outlet, the person must obtain a separate
24 pesticide retailer license for each sales outlet through which the per-
25 son sells or offers pesticides. Ten dollars of the license fee shall be
26 credited to a subaccount within the Department of Agriculture Service
27 Fund and notwithstanding ORS 561.144 shall be used for the purpose
28 of carrying out department responsibilities under ORS 634.045. Ten
29 dollars of the license fee shall be credited to a subaccount within the
30 Department of Agriculture Service Fund and notwithstanding ORS**

1 **561.144 shall be used by the department to develop and provide mate-**
2 **rials under subsection (3) of this section regarding proper handling and**
3 **disposal techniques for pesticides and for developing additional pro-**
4 **grams to educate nonprofessional users of pesticides regarding proper**
5 **pesticide application.**

6 **“(3) A pesticide retailer shall ensure that each sales outlet through**
7 **which the pesticide retailer sells or offers pesticides has a designated**
8 **employee to serve as a contact person for the department. The desig-**
9 **nated person shall ensure that the sales outlet maintains a supply of**
10 **any materials provided by the department regarding proper handling**
11 **and disposal techniques for pesticides and makes those materials**
12 **available to members of the public upon request.**

13 **“SECTION 4.** ORS 634.326, as amended by section 6, chapter 744, Oregon
14 Laws 2015, is amended to read:

15 “634.326. (1) The State Department of Agriculture shall deposit all fees
16 paid to it under the provisions of this chapter in the Department of Agri-
17 culture Service Fund. Such moneys are continuously appropriated to the de-
18 partment for the purpose of administering and enforcing the provisions of
19 this chapter.

20 “(2) An amount of the fees and moneys referred to in subsection (1) of this
21 section not to exceed 10 percent of registration fees received under ORS
22 634.016 may be used by the department pursuant to agreements entered into
23 between the department and the Dean of the College of Agricultural Sciences
24 of Oregon State University, with the advice of the Minor Crops Advisory
25 Committee for the purposes set forth in subsection (3) of this section.

26 “(3) The amounts provided for in subsection (2) of this section shall be
27 used by the Dean of the College of Agricultural Sciences of Oregon State
28 University for research projects and investigations agreed upon by the dean
29 and the department directed toward obtaining pesticide use registrations
30 needed by growers to produce crops economically in Oregon.

1 “[4] *The department shall apply \$10 of each registration fee collected pur-*
2 *suant to ORS 634.016 to fulfill the provisions of ORS 634.045 (4).*]

3 **“SECTION 5. This 2019 Act being necessary for the immediate**
4 **preservation of the public peace, health and safety, an emergency is**
5 **declared to exist, and this 2019 Act takes effect on its passage.”.**

6
