

Requested by Representative WITT

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2031**

1 On page 1 of the printed bill, delete lines 3 and 4 and insert “ORS 634.006,  
2 634.306, 634.322, 634.900 and 634.992.”.

3 Delete lines 6 through 30 and delete pages 2 through 13 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)(A) Is **using**, spraying or applying **restricted-use or highly toxic**  
13 pesticides for others; **or**

14 “(B) **Is spraying or applying pesticides for others;**

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

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

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

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

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

1 spraying equipment.

2 “(13) ‘Pesticide operator’ means a person who owns or operates a business  
3 engaged in the application of pesticides upon the land or property of another.

4 “(14) ‘Pesticide trainee’ means an individual who:

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

6 “(b) Is working and engaged in a training program under special certifi-  
7 cate to qualify as a pesticide applicator.

8 “(15) ‘Private applicator’ means an individual who uses or supervises the  
9 use of any pesticide, classified by the department as a restricted-use or  
10 highly toxic pesticide, for the purpose of producing agricultural commodities  
11 or forest crops on land owned or leased by the individual or the employer  
12 of the individual.

13 “(16) ‘Professed standard of quality’ means a plain and true statement of  
14 the name and percentage of each active ingredient and the total percentage  
15 of all inert ingredients contained in any pesticide.

16 “(17) ‘Protected area’ means an area established under the provisions of  
17 this chapter to prohibit or restrict the application of pesticides.

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

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

30 “(20) ‘Registrant’ means a person registering any pesticide pursuant to

1 this chapter.

2 “(21) ‘Restricted area’ means an area established under the provisions of  
3 this chapter to restrict, but not prohibit, the application of pesticides.

4 “(22) ‘Restricted-use pesticide’ means any pesticide or device that the de-  
5 partment has found and determined to be so injurious or detrimental to hu-  
6 mans, pollinating insects, bees, animals, crops, wildlife, land or environment,  
7 other than the pests it is intended to prevent, destroy, control or mitigate,  
8 that additional restrictions are required.

9 “(23) ‘Weed’ means any plant that grows where not wanted.

10 **“SECTION 2.** ORS 634.306 is amended to read:

11 “634.306. In accordance with the provisions of ORS chapter 183, the State  
12 Department of Agriculture may adopt rules to carry out the purposes and  
13 intent of this chapter, including but not limited to rules that:

14 “(1) Establish and maintain a program required for an individual to work  
15 or engage in the application or [*spraying*] **other use** of pesticides as a pes-  
16 ticide trainee. In this regard, the department may take into consideration:

17 “(a) Requirements for submission of applications by pesticide trainees.

18 “(b) Minimum and maximum periods of work or experience required for  
19 pesticide trainees.

20 “(c) Work performance records or reports to be maintained by pesticide  
21 trainees or their employers.

22 “(d) Acceptance of educational qualifications, applicable work or experi-  
23 ence in similar or other fields in lieu of, or as a part of, periods of employ-  
24 ment or work by pesticide trainees.

25 “(e) Forms and types of pesticide trainee certificates to be issued by the  
26 department, authorizing trainees to apply pesticides in all or part of the  
27 classes of operations or businesses set forth in subsection (2) of this section.

28 “(f) Laws and requirements relating to other professional, trade or in-  
29 dustry trainee or apprenticeship programs in this or other states.

30 “(g) Special requirements if the pesticide trainee is to assist a pesticide

1 applicator in the spraying or other application of pesticides by aircraft, and  
2 the advisability of allowing participation in federal flight training programs  
3 to be substituted, all or in part, for training requirements under this chapter.

4 “(2) Establish and maintain classifications of the various pesticides and  
5 of the various pest control or pesticide application businesses in order to  
6 facilitate the licensing or certification and regulation of pesticide consult-  
7 ants, operators, applicators, private applicators and trainees. In this regard  
8 the department may take into consideration:

9 “(a) Various types, formulations and characteristics of pesticides used and  
10 their purposes.

11 “(b) Various methods of application of the pesticides.

12 “(c) Precautions required for safe and effective application of the pesti-  
13 cides.

14 “(3) Designate pesticides authorized to be used or applied, or prohibited  
15 from use or application, by persons in order to qualify for an exemption un-  
16 der ORS 634.106.

17 “(4) Establish and maintain classifications of pesticides and devices that  
18 are deemed to be highly toxic or restricted-use pesticides or devices. In this  
19 regard, the department shall take into consideration:

20 “(a) Laws and regulations of the federal government, including the pro-  
21 visions of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C.  
22 136 et seq., as amended, and the Federal Environmental Pesticide Control  
23 Act of 1972, 86 Stat. 973.

24 “(b) Laws and regulations of other states.

25 “(c) Advice and counsel of experts in pesticides from industry, universities  
26 and colleges and other governmental agencies or bodies.

27 “(5) Establish and maintain types of pesticide consultant or applicator  
28 examinations and reexaminations, schedules for required reexaminations and  
29 other measures deemed necessary for fair and reasonable testing of appli-  
30 cants as provided in ORS 634.122 (5).

1       “(6) Designate the conditions under which pesticide operators that are or  
2 that employ pesticide applicators to spray or otherwise apply pesticides by  
3 aircraft may reduce, suspend or terminate the liability insurance required  
4 by ORS 634.116, and the periods of time for a reduction, suspension or ter-  
5 mination. In this regard, the department may take into consideration:

6       “(a) Changes in climate or seasons.

7       “(b) Periods when certain crops are or have been harvested.

8       “(c) Restricted or limited use of various types or classes of pesticides.

9       “(d) Possibilities of injury or death to humans and loss or damage to real  
10 or personal property.

11       “(7) Establish the conditions and amounts allowed for deductible classes  
12 in the liability insurance required by ORS 634.116.

13       “(8) Establish and maintain programs of instruction or educational  
14 courses for pesticide consultants, operators, applicators and private  
15 applicators in cooperation with Oregon State University or others, wherein,  
16 as far as is practicable, provisions are made so as to allow the pesticide op-  
17 erators and applicators to participate only in the instruction or courses di-  
18 rectly or indirectly related to their particular activities. Attendance of  
19 licensees may be required.

20       “(9) Prepare and distribute a manual, or other form of publication, con-  
21 taining information helpful and beneficial to individuals engaged in pesticide  
22 application or use or to persons preparing to qualify for licensing as a pes-  
23 ticide operator, consultant or applicator and establish charges therefor.

24       “(10) Establish, from time to time, advisory groups or committees to assist  
25 the department in formulation of policies, plans or regulations under this  
26 chapter. Each member of any such group or committee so established shall  
27 be entitled to compensation and expenses as provided in ORS 292.495, to be  
28 charged to the department.

29       “(11) Establish registration fees for pesticide brands and formulae or for-  
30 mulations under those pesticide brands.

1 “(12) Establish restrictions or prohibitions as to the form of pesticides  
2 allowed to be mixed, applied or added to fertilizers, seed or grains.

3 “(13) Establish restrictions, methods and procedures in the storage,  
4 transportation, use or application of restricted-use pesticides or highly toxic  
5 pesticides in order to protect humans, pollinating insects, bees, animals,  
6 crops, wildlife, land or environment.

7 “(14) Establish and maintain a system for certification of private  
8 applicators. In this regard, the department shall take into consideration:

9 “(a) Laws and regulations of the federal government, including the pro-  
10 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.  
11 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136  
12 et seq., as amended thereby, and regulations thereunder.

13 “(b) Minimum periods of experience required and types of experience, ed-  
14 ucation or work acceptable.

15 “(c) Forms and types of private applicator certificates to be issued by the  
16 department, authorizing private applicators to apply pesticides in all or part  
17 of the classifications of pesticides set forth in subsection (4) of this section.

18 **“SECTION 3.** ORS 634.322 is amended to read:

19 “634.322. In carrying out and enforcing the provisions of this chapter, the  
20 State Department of Agriculture is authorized:

21 “(1) To collect samples of pesticides from any source, for analysis to de-  
22 termine compliance with this chapter.

23 “(2) In accordance with the provisions of ORS 561.605 to 561.630, to seize  
24 or embargo any pesticide or device which is misbranded, adulterated or oth-  
25 erwise in violation of this chapter.

26 “(3) Notwithstanding the provisions of ORS 561.605 to 561.630, whenever  
27 the department has reasonable cause to believe a pesticide or device is being  
28 formulated, distributed, stored or transported in violation of any of the pro-  
29 visions of this chapter, to issue and serve a written ‘stop sale, use or  
30 removal’ order to and upon the owner or person in custody of any such pes-



1 ticide or device. In the event the owner or person in custody is not available  
2 for service of the order, the department may attach a copy of the order to  
3 the pesticide or device. Upon issuance of the order, the pesticide or device  
4 shall not be sold, used or removed until the provisions of this chapter have  
5 been complied with and the pesticide or device has been released, by written  
6 notice of the department, under conditions specified by the department.

7 “(4) In accordance with the provisions of ORS chapter 183, to revoke,  
8 suspend or refuse to issue or renew any license or certificate if it determines  
9 that an applicant, licensee or certificate holder has violated [*any of the pro-*  
10 *visions of this chapter.*]:

11 **“(a) A provision of this chapter;**

12 **“(b) A rule adopted by the department for the administration or**  
13 **enforcement of this chapter;**

14 **“(c) A provision of federal law set forth in 7 U.S.C. 136 to 136y, as**  
15 **amended and in effect on July 1, 2019; or**

16 **“(d) A federal regulation set forth in 40 C.F.R. 152.1 to 180.2020, as**  
17 **amended and in effect on July 1, 2019.**

18 “(5) In accordance with the provisions of ORS chapter 183, to amend,  
19 suspend or revoke the registration of a pesticide for violation of any of the  
20 provisions of this chapter.

21 “(6) To establish limitations and procedures deemed necessary and proper  
22 for the protection of persons, pollinating insects, bees, animals, crops,  
23 wildlife, land or environment, on the following:

24 “(a) Quantities of packages;

25 “(b) Quantities of sales;

26 “(c) Uses or applications;

27 “(d) Methods of sale, including prescription or permit requirements; or

28 “(e) Persons to whom sold.

29 “(7) To inspect any records required to be maintained by persons formu-  
30 lating, distributing, using or selling the pesticides described in ORS 634.306

1 (4), and to cause monitoring of the effects of such pesticides on human or  
2 animal life in any area where it is used or applied by a recognized and  
3 qualified person or agency.

4 “(8) To enter into cooperative and reciprocal agreements with the federal  
5 government, or any of its agencies, for the purpose of enforcement of the  
6 provisions of this chapter or federal laws and regulations on the same sub-  
7 ject matters, and to receive and expend funds pursuant to such agreements  
8 in furtherance of such purpose.

9 “(9) To cooperate with, and request the assistance of, Oregon State Uni-  
10 versity, governmental agencies or other persons for the purpose of enforce-  
11 ment of the provisions of this chapter.

12 “(10)(a) To act jointly in, and with the concurrence of the State Forester  
13 and a research specialist designated by Oregon State University, the issuance  
14 of permits for the use of isopropyl ester of 2,4-D or any other ester of equal  
15 or higher volatility with regard to plant damage. Each such permit shall  
16 specify:

17 “(A) The particular ester allowed;

18 “(B) The boundaries of the area in which it may be used; and

19 “(C) The prescribed time limit and condition under which it may be ap-  
20 plied.

21 “(b) Such permits shall only be issued when the issuing authority deter-  
22 mines that the use of the ester will not damage agricultural and forest pro-  
23 ducts and susceptible crops. In making such determination, the issuing  
24 authority shall consider research data, topography, climate, temperature,  
25 humidity, prevailing winds, characteristics of the ester and location of agri-  
26 cultural and forest products and susceptible crops. Such permits may be is-  
27 sued subject to conditions prescribed by the issuing authority. Issuance of  
28 such permit shall not be construed as a waiver of any of the provisions of  
29 this chapter.

30 **“SECTION 4.** ORS 634.900 is amended to read:

1 “634.900. (1) In addition to any other liability or penalty provided by law,  
2 the Director of Agriculture may impose a civil penalty on a person for vio-  
3 lation of any of the provisions of this chapter relating to pesticide applica-  
4 tion, sale or labeling. The civil penalty for a first violation shall be not more  
5 than \$2,000. For a subsequent violation, the director may impose a civil  
6 penalty of not more than \$4,000.

7 “(2) Notwithstanding subsection (1) of this section, if the violation of a  
8 provision relating to pesticide application, sale or labeling results from gross  
9 negligence or willful misconduct, the civil penalty for a first or subsequent  
10 violation may not exceed \$10,000.

11 “(3) A civil penalty may not be imposed under this section for violations  
12 other than those involving pesticide application, sale or labeling violation  
13 under this chapter.

14 “(4) **Notwithstanding subsections (1) to (3) of this section, the di-**  
15 **rector may impose a civil penalty on a person for violation of any of**  
16 **the provisions of this chapter related to restricted-use pesticides or for**  
17 **violation of any rule adopted pursuant to this chapter related to**  
18 **restricted-use pesticides.**

19 “SECTION 5. ORS 634.992 is amended to read:

20 “634.992. Violation of any of the provisions of this chapter, **or any rules**  
21 **adopted by the State Department of Agriculture related to restricted-**  
22 **use pesticides,** is a Class A misdemeanor.”.

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