

A-Engrossed
House Bill 4062

Ordered by the House February 16
Including House Amendments dated February 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Land Use, and Water for Representative Ken Helm)

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.

[Authorizes State Department of Agriculture to establish by rule types or classes of licenses or certificates for persons using pesticides.]

Establishes noncommercial pesticide applicator license and noncommercial pesticide trainee's certificate.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to licensing of persons using pesticides; creating new provisions; amending ORS 634.006,
3 634.045, 634.112, 634.128, 634.306, 634.372, 634.725, 634.730 and 634.750; and prescribing an ef-
4 fective date.

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

6 **SECTION 1. Sections 2 and 3 of this 2022 Act are added to and made a part of ORS**
7 **chapter 634.**

8 **SECTION 2. (1) An applicant for a noncommercial pesticide applicator license must:**

9 **(a) Be at least 18 years of age at the time the license is issued; and**

10 **(b) Demonstrate to the satisfaction of the State Department of Agriculture, on a written**
11 **examination or any reexamination given by the department, an adequate knowledge of:**

12 **(A) The characteristics of pesticides and the effect of their application;**

13 **(B) The practices of application of pesticides;**

14 **(C) The conditions and times of application of pesticides and the precautions to be taken**
15 **in connection therewith;**

16 **(D) The applicable laws and rules relating to pesticides and their application in this state;**

17 **(E) Integrated pest management techniques, as defined in ORS 634.650, for pest control;**

18 **(F) Best practices for avoiding adverse effects from pesticides on populations of bees and**
19 **other pollinating insects; and**

20 **(G) Other requirements or procedures that will benefit and protect human health and the**
21 **environment.**

22 **(2) Based upon the license application and the request of the applicant, the department**
23 **may examine the applicant in any one or more of the classes of pest control established by**
24 **the department under ORS 634.306 (2).**

25 **(3) The fee for a noncommercial pesticide applicator license, including fees for an addi-**
26 **tional class, shall be the same as the license fee adopted by the department, pursuant to ORS**

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 **634.122, for a pesticide applicator's license.**

2 **(4) A noncommercial pesticide applicator license shall be:**

3 **(a) Valid and used by the licensee only when applying pesticides as authorized by the**
4 **noncommercial pesticide applicator license; and**

5 **(b) Renewed, suspended or revoked in the same manner, under the same provisions and**
6 **at the same time as other pesticide applicator licenses are renewed, suspended or revoked.**

7 **(5) The department is authorized to prepare and maintain various types of examinations**
8 **and types and schedules of reexaminations and to take all other measures deemed necessary**
9 **to ensure that persons receiving passing grades have been fairly and reasonably tested as to**
10 **their ability and that there have been no fraudulent or dishonest means used by the appli-**
11 **cants in applying for or in the taking of examinations or reexaminations.**

12 **(6) If the department verifies an applicant has received a passing grade on the examina-**
13 **tion or reexamination and otherwise has complied with the provisions of this chapter, the**
14 **department shall issue a noncommercial pesticide applicator's license.**

15 **(7) A person acting as a noncommercial pesticide applicator shall prepare and maintain**
16 **records as required by the department.**

17 **(8) A noncommercial pesticide applicator license does not authorize a licensee to work**
18 **for or be employed by a pesticide operator.**

19 **(9) The department may adopt rules to administer the provisions of this chapter per-**
20 **taining to noncommercial pesticide applicators and noncommercial pesticide trainees. In**
21 **adopting such rules, the department shall consider the Federal Insecticide, Fungicide, and**
22 **Rodenticide Act, 7 U.S.C. 136 et seq., or other relevant federal laws or regulations, or rele-**
23 **vant provisions of this chapter.**

24 **SECTION 3. (1) In accordance with rules adopted by the State Department of Agricul-**
25 **ture, as provided in ORS 634.306 (1), the department shall issue or renew a noncommercial**
26 **pesticide trainee's certificate if the applicant or certificate holder:**

27 **(a) Is at least 18 years of age;**

28 **(b) Is working under the direct supervision and control of a licensed noncommercial**
29 **pesticide applicator or, if spraying or otherwise applying pesticides by aircraft, a certified**
30 **aerial pesticide applicator; and**

31 **(c) Is in compliance with the applicable provisions of this chapter and rules adopted un-**
32 **der this chapter pertaining to noncommercial pesticide applicators.**

33 **(2) The fee for a noncommercial pesticide trainee's certificate, or renewal thereof, shall**
34 **be the same as the license fee for a pesticide applicator.**

35 **SECTION 4. ORS 634.006 is amended to read:**

36 **634.006. As used in this chapter unless the context requires otherwise:**

37 **(1) "Antidote" means a practical immediate treatment in case of poisoning and includes first-aid**
38 **treatment.**

39 **(2) "Brand" or "trademark" means any word, name, symbol or any combination thereof adopted**
40 **or used by a person to identify pesticides manufactured, compounded, delivered, distributed, sold or**
41 **offered for sale in this state and to distinguish them from pesticides manufactured, compounded,**
42 **delivered, distributed, sold or offered for sale by others.**

43 **(3) "Department" means the State Department of Agriculture.**

44 **(4) "Device" means any instrument or contrivance containing pesticides or other chemicals in-**
45 **tended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling**

1 or mitigating fungi, nematodes or such other pests as may be designated by the department, but does
2 not include equipment used for the application of pesticides or other chemicals when sold separately
3 from such pesticides or chemicals.

4 (5) "Highly toxic" means a pesticide or device determined by the department to be capable of
5 causing severe injury, disease or death to human beings.

6 (6) "Landowner" means a person:

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

8 (b) In the case of multiple ownership of land:

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

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

12 (7) "**Noncommercial pesticide applicator**" or "**noncommercial applicator**" means:

13 (a) **An individual who uses or supervises the use of any restricted-use pesticide or highly**
14 **toxic pesticide on land or property owned or leased by the individual or the employer of the**
15 **individual, except for an individual who performs the work, duties or responsibilities of a**
16 **private applicator or a public applicator; or**

17 (b) **An individual who owns or is employed by a private school and who performs or car-**
18 **ries out the work, duties or responsibilities of a pesticide applicator at the school's campus,**
19 **as defined in ORS 634.700.**

20 (8) "**Noncommercial pesticide trainee**" means **an individual who is working and engaged**
21 **in a training program under a special certificate to qualify as a noncommercial pesticide**
22 **applicator and who performs or carries out the work, duties or responsibilities of a pesticide**
23 **trainee.**

24 [(7)] (9) "Person" means:

25 (a) A person as defined in ORS 174.100;

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

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

28 [(8)] (10) "Pesticide" includes:

29 (a) "Defoliant" which means any substance or mixture of substances intended for causing the
30 leaves or foliage to drop from a plant with or without causing abscission;

31 (b) "Desiccant" which means any substance or mixture of substances intended for artificially
32 accelerating the drying of plant tissue;

33 (c) "Fungicide" which means any substance or mixture of substances intended for preventing,
34 destroying, repelling or mitigating any fungus;

35 (d) "Herbicide" which means any substance or mixture of substances intended for preventing,
36 destroying, repelling or mitigating any weed;

37 (e) "Insecticide" which means any substance or mixture of substances intended for preventing,
38 destroying, repelling or mitigating any insects which may be present in any environment whatso-
39 ever;

40 (f) [*Nematocide*] "**Nematicide**" which means any substance or mixture of substances intended
41 for preventing, destroying, repelling or mitigating nematodes;

42 (g) "Plant regulator" which means any substance or mixture of substances intended, through
43 physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise
44 alter the behavior of ornamental or crop plants or the produce thereof, but does not include sub-
45 stances to the extent that they are intended as plant nutrients, trace elements, nutritional chemi-

1 cal, plant inoculants or soil amendments; or

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

7 [(9)] (11) "Pesticide applicator" or "applicator" means an individual who:

8 (a)(A) Is using, spraying or applying restricted-use or highly toxic pesticides; or

9 (B) Is spraying or applying pesticides for others;

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

11 (c) Is in direct charge of or supervises the spraying or other use of pesticides or operates, uses,
12 drives or physically directs propulsion of equipment, apparatus or machinery during the spraying
13 or other application of pesticides, either on the ground or, if certified under ORS 634.128, by air-
14 craft.

15 [(10)] (12) "Pesticide consultant" means a person who offers or supplies technical advice,
16 supervision, aid or recommendations to the user of pesticides classified by the department as
17 restricted-use or highly toxic pesticides, whether licensed as a pesticide dealer or not.

18 [(11)] (13) "Pesticide dealer" means a person who sells, offers for sale, handles, displays or dis-
19 tributes any pesticide classified by the department as a restricted-use or highly toxic pesticide.

20 [(12)] (14) "Pesticide equipment" means any equipment, machinery or device used in the actual
21 application of pesticides, including aircraft and ground spraying equipment.

22 [(13)] (15) "Pesticide operator" means a person who owns or operates a business engaged in the
23 application of pesticides upon the land or property of another.

24 [(14)] (16) "Pesticide trainee" means an individual who:

25 (a) Is employed by a pesticide operator; and

26 (b) Is working and engaged in a training program under special certificate to qualify as a pes-
27 ticide applicator.

28 [(15)] (17) "Private applicator" means an individual who uses or supervises the use of any pes-
29 ticide, classified by the department as a restricted-use or highly toxic pesticide, for the purpose of
30 producing agricultural commodities or forest crops on land owned or leased by the individual or the
31 employer of the individual.

32 [(16)] (18) "Professed standard of quality" means a plain and true statement of the name and
33 percentage of each active ingredient and the total percentage of all inert ingredients contained in
34 any pesticide.

35 [(17)] (19) "Protected area" means an area established under the provisions of this chapter to
36 prohibit or restrict the application of pesticides.

37 [(18)] (20) "Public applicator" means an individual who is an employee of the State of Oregon
38 or its agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions
39 thereof, irrigation districts, drainage districts and public utilities and telecommunications utilities
40 and who performs or carries out the work, duties or responsibilities of a pesticide applicator.

41 [(19)] (21) "Public trainee" means an individual who is an employee of the State of Oregon or
42 its agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions
43 thereof, irrigation districts, drainage districts and public utilities and telecommunications utility and
44 who performs or carries out the work, duties or responsibilities of a pesticide trainee.

45 [(20)] (22) "Registrant" means a person registering any pesticide pursuant to this chapter.

1 [(21)] **(23)** “Restricted area” means an area established under the provisions of this chapter to
2 restrict, but not prohibit, the application of pesticides.

3 [(22)] **(24)** “Restricted-use pesticide” means any pesticide or device that the department has
4 found and determined to be so injurious or detrimental to humans, pollinating insects, bees, animals,
5 crops, wildlife, land or environment, other than the pests it is intended to prevent, destroy, control
6 or mitigate, that additional restrictions are required.

7 **(25) “Trainee” means a pesticide trainee, public trainee or noncommercial pesticide**
8 **trainee.**

9 [(23)] **(26)** “Weed” means any plant that grows where not wanted.

10 **SECTION 5.** ORS 634.045 is amended to read:

11 634.045. (1)(a) Oregon State University, in consultation with the State Department of Agricul-
12 ture, shall develop educational materials regarding the best practices for avoiding adverse effects
13 from pesticides on populations of bees and other pollinating insects.

14 (b) The educational materials must include, but need not be limited to, measures that pesticide
15 applicators and pesticide trainees can take to protect honeybees and bumblebees.

16 (c) The university and the department shall design the requirements to ensure that any pesticide
17 applicator applying or supervising the application of a pesticide is knowledgeable regarding alter-
18 natives to, the appropriateness of, and precautions for pesticide use that may be injurious to the
19 health of bees and other pollinating insects.

20 (d) The department shall make the educational materials described in this section a part of the
21 education required for taking the pesticide applicator licensing examination under ORS 634.122 **and**
22 **section 2 of this 2022 Act.**

23 (2)(a) Oregon State University, in consultation with the State Department of Agriculture, the
24 State Forestry Department, the Department of Transportation and the State Department of Fish and
25 Wildlife shall develop and annually revise a pollinator health outreach and education plan to edu-
26 cate the public regarding the best practices for increasing habitat for bees and other pollinating
27 insects and avoiding adverse effects from pesticides on populations of bees and other pollinating
28 insects. The plan shall include:

29 (A) Educational materials that are appropriate and effective for a broad audience, including, but
30 not limited to, pesticide applicators, consultants, dealers, operators and trainees, **noncommercial**
31 **pesticide applicators** and private applicators, as those terms are defined in ORS 634.006, and
32 members of the public; and

33 (B) A communication strategy for dissemination of educational materials using media sources,
34 state agencies, associations and organizations.

35 (b) Oregon State University, including a representative of the university who specializes in
36 pollinator health, the State Department of Agriculture, the State Forestry Department, the Depart-
37 ment of Transportation and the State Department of Fish and Wildlife shall conduct an annual
38 meeting to:

39 (A) Confer regarding the activities that the university and each agency undertook to promote
40 pollinator health and increases in pollinator habitat in accordance with the plan developed under
41 paragraph (a) of this subsection; and

42 (B) Review revisions to the plan developed under paragraph (a) of this subsection.

43 (3) The State Department of Agriculture shall develop a bee incident reporting system to facili-
44 tate public reporting of incidents related to pollinator health to the department.

45 (4) Oregon State University, in consultation with the State Department of Agriculture, shall

1 develop a pesticide use safety plan to educate the public regarding best practices in the use of
2 pesticides. The plan shall include:

3 (a) Educational materials that are appropriate and effective for a broad audience, including, but
4 not limited to, pesticide applicators, consultants, dealers, operators and trainees and private
5 applicators **and noncommercial applicators**, as those terms are defined in ORS 634.006, and mem-
6 bers of the public; and

7 (b) A communication strategy for dissemination of educational materials using media sources,
8 state agencies, associations and organizations.

9 **SECTION 6.** ORS 634.112 is amended to read:

10 634.112. (1) Except as provided in ORS 634.142 (2), any license or certificate issued or required
11 of a pesticide consultant, dealer, operator, applicator, private applicator, **noncommercial**
12 **applicator** or trainee by this chapter shall expire on December 31 following issuance or on such
13 date as may be specified by rule of the State Department of Agriculture. At least 30 days prior to
14 the expiration date, the department shall by mail notify each person holding a license or certificate
15 of the expiration date thereof.

16 (2) Applications for all licenses or certificates required of a pesticide consultant, dealer, opera-
17 tor, applicator, private applicator, **noncommercial applicator** or trainee, or renewal thereof, shall
18 be made to the department on forms prescribed by the department and accompanied by the pre-
19 scribed fee.

20 (3) All such licenses or certificates are personal to the applicant and may not be transferred to
21 any other person.

22 (4) Nothing in this chapter shall be construed as requiring a person, helping or assisting in the
23 application of pesticides by a licensed pesticide applicator, **licensed noncommercial pesticide**
24 **applicator** or certified private applicator or the pesticide application business through the per-
25 formance of manual labor only, to obtain a license or certificate, if the actual application of pesti-
26 cides is made by:

27 (a) A licensed pesticide applicator, **licensed noncommercial pesticide applicator** or a certified
28 private applicator; or

29 (b) A person applying pesticides under ORS 634.106.

30 (5) Failure to pay the renewal license fees when due by a pesticide consultant, dealer,
31 operator, [*or*] applicator[,] **or noncommercial applicator**, or failure to pay the renewal certificate
32 fees by a trainee, shall forfeit the right to engage in the activities of a pesticide consultant, dealer,
33 operator, applicator, **noncommercial applicator** or trainee, as the case may be. Any person whose
34 pesticide consultant, dealer, operator, [*or*] applicator **or noncommercial applicator** license, or
35 trainee certificate, has been forfeited, shall not be issued a license, certificate or renewal license
36 or renewal certificate except upon written application to the department accompanied by a sum of
37 money equal to the license or certificate fee which should have been paid.

38 (6) If such person is a pesticide consultant, [*or*] applicator **or noncommercial applicator** and
39 does not pay the license fee during the first month in which the license fee is delinquent, thereafter
40 such pesticide consultant, [*or*] applicator **or noncommercial applicator** shall not only pay the re-
41 quired license fee but shall also obtain a passing grade in a reexamination given by the department
42 for pesticide applicators as prescribed in ORS 634.122, or otherwise demonstrate knowledge of the
43 subject to the satisfaction of the department.

44 (7) No penalty reexamination shall be required of a person whose application for renewal of a
45 license or certificate is accompanied by a signed statement that prior to the application the person

1 has not operated or worked as a pesticide consultant, applicator, **noncommercial applicator** or
 2 trainee, as the case may be, during the previous six months or since the expiration date of the last
 3 license or certificate of the person, whichever time is less. If the department later verifies this
 4 signed statement is false, then notwithstanding the provisions of ORS chapter 183, the department
 5 may immediately suspend the license or certificate which was issued as a result of such statement.
 6 Such suspension shall only be removed after the person has complied with the applicable provisions
 7 of subsections (5) and (6) of this section.

8 **SECTION 7.** ORS 634.128 is amended to read:

9 634.128. (1) An individual may not spray or otherwise apply a pesticide by aircraft unless the
 10 individual holds a valid aerial pesticide applicator certificate issued by the State Department of
 11 Agriculture.

12 (2) The department may issue an aerial pesticide applicator certificate to an individual who:

13 (a) Is a licensed pesticide applicator, licensed public applicator, **licensed noncommercial pes-**
 14 **ticide applicator** or certified private applicator;

15 (b) Passes a national examination, or other examination approved by the department, testing the
 16 knowledge of the individual regarding proper spraying and other application of pesticides by air-
 17 craft;

18 (c) Holds a valid commercial pilot certificate for the type of aircraft to be used by the individual
 19 in applying pesticides;

20 (d) Has 50 or more hours of experience as a licensed pesticide applicator, licensed public
 21 applicator, **licensed noncommercial pesticide applicator** or certified private applicator, or as a
 22 pesticide trainee, [or] public trainee **or noncommercial pesticide trainee** under the supervision
 23 of a certified aerial pesticide applicator, on flights conducted for the purpose of carrying out, or
 24 training to carry out, spraying or otherwise applying pesticides by aircraft; and

25 (e) Pays a certificate fee established by the department by rule.

26 (3) In determining appropriate examinations for approval under subsection (2)(b) of this section,
 27 the department shall give consideration to any examination of aerial pesticide applicator compe-
 28 tency developed or approved by a national organization of state agencies that regulate agriculture.

29 (4)(a) The department shall establish a term for aerial pesticide applicator certificates, not to
 30 exceed five years. The department shall suspend or revoke the certificate if the certificate holder
 31 fails to maintain a valid pesticide applicator license, public applicator license, **noncommercial**
 32 **pesticide applicator license** or private applicator certificate. Except as provided in paragraph (b)
 33 of this subsection, an aerial pesticide applicator certificate may be renewed.

34 (b) The certificate holder may renew an aerial pesticide applicator certificate only if, during the
 35 preceding five years, the holder successfully completed at least 10 credit hours in programs of in-
 36 struction or educational courses satisfactory to the department and related to the spraying or other
 37 application of pesticides by aircraft. In determining whether programs of instruction or educational
 38 courses are satisfactory for purposes of this subsection, the department shall consult with profes-
 39 sional associations or other organizations serving aerial applicators of pesticides or with a national
 40 organization of state agencies that regulate agriculture. The department shall count any credit
 41 hours in satisfactory programs of instruction or educational courses described in this subsection
 42 toward any instruction or education requirements imposed by the department for the renewal of a
 43 pesticide applicator license **or noncommercial pesticide applicator license**.

44 (5) If a certificate holder is licensed as a public applicator, the certificate holder may spray or
 45 otherwise apply pesticides by aircraft only to properties described in ORS 634.116 (12).

1 **SECTION 8.** ORS 634.306 is amended to read:

2 634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agri-
3 culture may adopt rules to carry out the purposes and intent of this chapter, including but not
4 limited to rules that:

5 (1) Establish and maintain a program required for an individual to work or engage in the ap-
6 plication or other use of pesticides as a pesticide trainee **or noncommercial pesticide trainee**. In
7 this regard, the department may take into consideration:

8 (a) Requirements for submission of applications by pesticide trainees **or noncommercial pesti-**
9 **cide trainees**.

10 (b) Minimum and maximum periods of work or experience required for pesticide trainees **or**
11 **noncommercial pesticide trainees**.

12 (c) Work performance records or reports to be maintained by pesticide trainees, **noncomm-**
13 **ercial pesticide trainees** or their employers.

14 (d) Acceptance of educational qualifications, applicable work or experience in similar or other
15 fields in lieu of, or as a part of, periods of employment or work by pesticide trainees **or noncom-**
16 **mercial pesticide trainees**.

17 (e) Forms and types of pesticide trainee certificates **or noncommercial pesticide trainee cer-**
18 **tificates** to be issued by the department, authorizing trainees to apply pesticides in all or part of
19 the classes of operations or businesses set forth in subsection (2) of this section.

20 (f) Laws and requirements relating to other professional, trade or industry trainee or appren-
21 ticeship programs in this or other states.

22 (g) Special requirements if the pesticide trainee **or noncommercial pesticide trainee** is to as-
23 sist a pesticide applicator **or noncommercial pesticide applicator** in the spraying or other appli-
24 cation of pesticides by aircraft, and the advisability of allowing participation in federal flight
25 training programs to be substituted, all or in part, for training requirements under this chapter.

26 (2) Establish and maintain classifications of the various pesticides and of the various pest con-
27 trol or pesticide application businesses in order to facilitate the licensing or certification and regu-
28 lation of pesticide consultants, operators, applicators, **noncommercial applicators**, private
29 applicators and trainees. In this regard the department may take into consideration:

30 (a) Various types, formulations and characteristics of pesticides used and their purposes.

31 (b) Various methods of application of the pesticides.

32 (c) Precautions required for safe and effective application of the pesticides.

33 (3) Designate pesticides authorized to be used or applied, or prohibited from use or application,
34 by persons in order to qualify for an exemption under ORS 634.106.

35 (4) Establish and maintain classifications of pesticides and devices that are deemed to be highly
36 toxic or restricted-use pesticides or devices. In this regard, the department shall take into consid-
37 eration:

38 (a) Laws and regulations of the federal government, including the provisions of the Federal
39 Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq., as amended, and the Federal Envi-
40 ronmental Pesticide Control Act of 1972, 86 Stat. 973.

41 (b) Laws and regulations of other states.

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

44 (5) Establish and maintain types of pesticide consultant, [or] applicator **or noncommercial**
45 **applicator** examinations and reexaminations, schedules for required reexaminations and other

1 measures deemed necessary for fair and reasonable testing of applicants as provided in ORS 634.122
2 (5) **and section 2 (5) of this 2022 Act.**

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

7 (a) Changes in climate or seasons.

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

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

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

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

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

18 (9) Prepare and distribute a manual, or other form of publication, containing information helpful
19 and beneficial to individuals engaged in pesticide application or use or to persons preparing to
20 qualify for licensing as a pesticide operator, consultant, [or] applicator **or noncommercial**
21 **applicator** and establish charges therefor.

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

26 (11) Establish registration fees for pesticide brands and formulae or formulations under those
27 pesticide brands.

28 (12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, ap-
29 plied or added to fertilizers, seed or grains.

30 (13) Establish restrictions, methods and procedures in the storage, transportation, use or appli-
31 cation of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating
32 insects, bees, animals, crops, wildlife, land or environment.

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

35 (a) Laws and regulations of the federal government, including the provisions of the Federal En-
36 vironmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and
37 Rodenticide Act, 7 U.S.C. 136 et seq., as amended thereby, and regulations thereunder.

38 (b) Minimum periods of experience required and types of experience, education or work accept-
39 able.

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

43 **SECTION 9.** ORS 634.372 is amended to read:

44 634.372. A person may not:

45 (1) Make false or misleading claims through any media, relating to the effect of pesticides or

1 application methods to be utilized.

2 (2) As a pesticide applicator, **noncommercial applicator, public applicator or pesticide** oper-
3 ator, intentionally or willfully apply or use a worthless pesticide or any pesticide inconsistent with
4 its labeling, or as a pesticide consultant or dealer, recommend or distribute such pesticides.

5 (3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device or
6 equipment.

7 (4) Perform pesticide application activities in a faulty, careless or negligent manner.

8 (5) Refuse or neglect to prepare and maintain records required to be kept by the provisions of
9 this chapter.

10 (6) Make false, misleading or fraudulent records, reports or application forms required by the
11 provisions of this chapter.

12 (7) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesti-
13 cide applicator, **licensed noncommercial pesticide applicator** or certified private applicator per-
14 forming the actual application, or supervising such application if such is performed by a pesticide
15 trainee. This prohibition does not apply to the operation of tractors, trucks or other vehicular
16 equipment used only under the supervision of a certified private applicator.

17 (8) As a pesticide applicator **or noncommercial pesticide applicator**, work or engage in the
18 application of any classes of pesticides without first obtaining and maintaining a pesticide
19 [*applicator's*] **applicator license or noncommercial applicator license**, or apply pesticides that are
20 not specifically authorized by such license.

21 (9) As a pesticide operator, engage in the business of, or represent or advertise as being in the
22 business of, applying pesticides upon the land or property of another, without first obtaining and
23 maintaining a pesticide operator's license. The operator also may not engage in a class of pesticide
24 application business that is not specifically authorized by license issued by the State Department
25 of Agriculture. The operator also may not employ or use any person to apply or spray pesticides
26 who is not a licensed pesticide applicator or pesticide trainee.

27 (10) As a pesticide trainee, **noncommercial pesticide trainee or public trainee**, work or en-
28 gage in the application of any class of pesticides without first obtaining and maintaining a pesticide
29 trainee's certificate and [*is*] otherwise **being** in compliance with the provisions of this chapter.

30 (11) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining and
31 maintaining a pesticide dealer's license.

32 (12) Act as, or purport to be, a pesticide consultant without first obtaining and maintaining a
33 pesticide consultant's license.

34 (13) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural,
35 horticultural or forest crops on land owned or leased by the person without first obtaining and
36 maintaining a private applicator certificate.

37 (14) As a person described in ORS 634.106 (5), use power-driven pesticide application equipment
38 or devices (use hand or backpack types only), or use or apply any pesticide other than those pre-
39 scribed by the department.

40 (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

41 (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.

42 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been regis-
43 tered as required by ORS 634.016.

44 (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
45 arsenic or any highly toxic fluoride that is not distinctly colored.

1 (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroke
2 ken package.

3 (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted
4 area without first obtaining a permit for such application from the committee of the protected or
5 restricted area in which the application is to be made. The person also may not make such appli-
6 cation contrary to the conditions or terms of the permit so issued.

7 (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to
8 plant damage as determined by the department, without first obtaining a permit for such use as
9 provided in ORS 634.322 (10).

10 (22) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order
11 until the pesticide or device has been released therefrom as provided in ORS 634.322 (3).

12 **SECTION 10.** ORS 634.725 is amended to read:

13 634.725. If a school has followed the integrated pest management plan and nonchemical pest
14 control measures were ineffective, subject to ORS 634.730 the integrated pest management plan co-
15 ordinator may authorize the application of a low-impact pesticide. The low-impact pesticide appli-
16 cation must be made by a pesticide applicator, a **noncommercial pesticide applicator** or [by] a
17 public applicator. The use of a pesticide applicator, **noncommercial pesticide applicator** or public
18 applicator to make an application does not cancel, alter or reassign any of the duties imposed under
19 ORS 634.740 or 634.750.

20 **SECTION 11.** ORS 634.730 is amended to read:

21 634.730. (1) Subject to subsection (2) of this section:

22 (a) If the labeling of a pesticide product specifies a reentry time, a pesticide may not be applied
23 to an area of a campus where the school expects students to be present before expiration of that
24 reentry time.

25 (b) If the labeling of a pesticide product does not specify a reentry time, a pesticide may not be
26 applied to an area of a campus where the school expects students to be present before expiration
27 of a reentry time that the integrated pest management plan coordinator determines to be appropri-
28 ate based on the times at which students would normally be expected to be in the area, area ven-
29 tilation and whether the area will be cleaned before students are present.

30 (2)(a) The application restrictions described in subsection (1) of this section do not apply if the
31 pesticide is applied outdoors by a pesticide applicator, a **noncommercial pesticide applicator** or
32 a public applicator as a component of academic instruction in agriculture.

33 (b) The application restrictions described in subsection (1)(b) of this section do not apply if the
34 integrated pest management plan coordinator declares a pest emergency under subsection (3) of this
35 section.

36 (3) An integrated pest management plan coordinator, after consultation with school faculty and
37 administration, may declare the existence of a pest emergency. If necessary, a pesticide other than
38 a low-impact pesticide may be used to mitigate a declared pest emergency. If a pesticide is applied
39 at a campus due to a pest emergency, the plan coordinator shall review the integrated pest man-
40 agement plan to determine whether modification of the plan might prevent future pest emergencies.
41 The plan coordinator shall submit any recommendations for modification of the plan to the govern-
42 ing body. The governing body shall review and take formal action on the recommendations.

43 **SECTION 12.** ORS 634.750 is amended to read:

44 634.750. (1) If a pesticide is applied at a campus, the integrated pest management plan coordi-
45 nator or a designee of the coordinator shall place the labeling information and material data safety

1 sheet for the pesticide on file at a school on the campus. The plan coordinator or designee shall
2 record and make available the following information:

3 (a) The brand name or trademark of the pesticide product;

4 (b) The United States Environmental Protection Agency registration number assigned to the
5 pesticide product;

6 (c) The pest condition that prompted the application;

7 (d) A description of the area on campus where the application occurred;

8 (e) The approximate amount and concentration of pesticide product applied;

9 (f) The type of application and whether the application proved effective;

10 (g) The pesticide applicator, **noncommercial pesticide applicator** or public applicator license
11 numbers and pesticide trainee, **noncommercial pesticide trainee** or public trainee certificate
12 numbers of the persons applying the pesticide;

13 (h) The names of the persons applying the pesticide;

14 (i) The dates on which the plan coordinator gave any notices required by ORS 634.740; and

15 (j) The dates and times for the placement and removal of warning signs under ORS 634.740.

16 (2) Pesticide application records must include copies of all notices given under ORS 634.740.

17 (3) A school shall retain pesticide application records required by this section for at least four
18 years following the application date.

19 **SECTION 13. This 2022 Act takes effect on the 91st day after the date on which the 2022**
20 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

21