

HB 4062-2  
(LC 207)  
2/10/22 (STN/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE, LAND USE, AND WATER (at the request  
of Representative Ken Helm)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4062**

1 In line 2 of the printed bill, after the semicolon insert “creating new  
2 provisions; amending ORS 634.006, 634.045, 634.112, 634.128, 634.306, 634.372,  
3 634.725, 634.730 and 634.750;”.

4 Delete lines 4 through 22 and insert:

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

7 **“SECTION 2. (1) An applicant for a noncommercial pesticide  
8 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  
11 Agriculture, on a written examination or any reexamination given by  
12 the department, an adequate knowledge of:**

13 **“(A) The characteristics of pesticides and the effect of their appli-  
14 cation;**

15 **“(B) The practices of application of pesticides;**

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

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

20 **“(E) Integrated pest management techniques, as defined in ORS  
21 634.650, for pest control;**

1       “(F) Best practices for avoiding adverse effects from pesticides on  
2 populations of bees and other pollinating insects; and

3       “(G) Other requirements or procedures that will benefit and protect  
4 human health and the environment.

5       “(2) Based upon the license application and the request of the ap-  
6 plicant, the department may examine the applicant in any one or more  
7 of the classes of pest control established by the department under ORS  
8 634.306 (2).

9       “(3) The fee for a noncommercial pesticide applicator license, in-  
10 cluding fees for an additional class, shall be the same as the license  
11 fee adopted by the department, pursuant to ORS 634.122, for a pesticide  
12 applicator’s license.

13       “(4) A noncommercial pesticide applicator license shall be:

14       “(a) Valid and used by the licensee only when applying pesticides  
15 as authorized by the noncommercial pesticide applicator license; and

16       “(b) Renewed, suspended or revoked in the same manner, under the  
17 same provisions and at the same time as other pesticide applicator li-  
18 censes are renewed, suspended or revoked.

19       “(5) The department is authorized to prepare and maintain various  
20 types of examinations and types and schedules of reexaminations and  
21 to take all other measures deemed necessary to ensure that persons  
22 receiving passing grades have been fairly and reasonably tested as to  
23 their ability and that there have been no fraudulent or dishonest  
24 means used by the applicants in applying for or in the taking of ex-  
25 aminations or reexaminations.

26       “(6) If the department verifies an applicant has received a passing  
27 grade on the examination or reexamination and otherwise has com-  
28 plied with the provisions of this chapter, the department shall issue a  
29 noncommercial pesticide applicator’s license.

30       “(7) A person acting as a noncommercial pesticide applicator shall

1 **prepare and maintain records as required by the department.**

2 **“(8) A noncommercial pesticide applicator license does not author-**  
3 **ize a licensee to work for or be employed by a pesticide operator.**

4 **“(9) The department may adopt rules to administer the provisions**  
5 **of this chapter pertaining to noncommercial pesticide applicators and**  
6 **noncommercial pesticide trainees. In adopting such rules, the depart-**  
7 **ment shall consider the Federal Insecticide, Fungicide, and**  
8 **Rodenticide Act, 7 U.S.C. 136 et seq., or other relevant federal laws or**  
9 **regulations, or relevant provisions of this chapter.**

10 **“SECTION 3. (1) In accordance with rules adopted by the State**  
11 **Department of Agriculture, as provided in ORS 634.306 (1), the depart-**  
12 **ment shall issue or renew a noncommercial pesticide trainee’s certifi-**  
13 **cate if the applicant or certificate holder:**

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

15 **“(b) Is working under the direct supervision and control of a li-**  
16 **censed noncommercial pesticide applicator or, if spraying or otherwise**  
17 **applying pesticides by aircraft, a certified aerial pesticide applicator;**  
18 **and**

19 **“(c) Is in compliance with the applicable provisions of this chapter**  
20 **and rules adopted under this chapter pertaining to noncommercial**  
21 **pesticide applicators.**

22 **“(2) The fee for a noncommercial pesticide trainee’s certificate, or**  
23 **renewal thereof, shall be the same as the license fee for a pesticide**  
24 **applicator.**

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

26 **“634.006. As used in this chapter unless the context requires otherwise:**

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

29 **“(2) ‘Brand’ or ‘trademark’ means any word, name, symbol or any combi-**  
30 **nation thereof adopted or used by a person to identify pesticides manufac-**

1 tured, compounded, delivered, distributed, sold or offered for sale in this  
2 state and to distinguish them from pesticides manufactured, compounded,  
3 delivered, distributed, sold or offered for sale by others.

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

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

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

14 “(6) ‘Landowner’ means a person:

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

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

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

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

22 “(7) **‘Noncommercial pesticide applicator’ or ‘noncommercial**  
23 **applicator’ means:**

24 **“(a) An individual who uses or supervises the use of any**  
25 **restricted-use pesticide or highly toxic pesticide on land or property**  
26 **owned or leased by the individual or the employer of the individual,**  
27 **except for an individual who performs the work, duties or responsi-**  
28 **bilities of a private applicator or a public applicator; or**

29 **“(b) An individual who owns or is employed by a private school and**  
30 **who performs or carries out the work, duties or responsibilities of a**

1 **pesticide applicator at the school's campus, as defined in ORS 634.700.**

2 **“(8) ‘Noncommercial pesticide trainee’ means an individual who is**  
3 **working and engaged in a training program under a special certificate**  
4 **to qualify as a noncommercial pesticide applicator and who performs**  
5 **or carries out the work, duties or responsibilities of a pesticide trainee.**

6 “[7] **(9) ‘Person’ means:**

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

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

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

10 “[8] **(10) ‘Pesticide’ includes:**

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

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

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

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

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

23 “(f) [*Nematocide*] **‘Nematicide’** which means any substance or mixture  
24 of substances intended for preventing, destroying, repelling or mitigating  
25 nematodes;

26 “(g) ‘Plant regulator’ which means any substance or mixture of substances  
27 intended, through physiological action, to accelerate or retard the rate of  
28 growth or rate of maturation or to otherwise alter the behavior of  
29 ornamental or crop plants or the produce thereof, but does not include sub-  
30 stances to the extent that they are intended as plant nutrients, trace ele-

1 ments, nutritional chemicals, plant inoculants or soil amendments; or

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

8 “[9] (11) ‘Pesticide applicator’ or ‘applicator’ means an individual who:

9 “(a)(A) Is using, spraying or applying restricted-use or highly toxic pesti-  
10 cides; or

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

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

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

18 “[10] (12) ‘Pesticide consultant’ means a person who offers or supplies  
19 technical advice, supervision, aid or recommendations to the user of pesti-  
20 cides classified by the department as restricted-use or highly toxic pesticides,  
21 whether licensed as a pesticide dealer or not.

22 “[11] (13) ‘Pesticide dealer’ means a person who sells, offers for sale,  
23 handles, displays or distributes any pesticide classified by the department as  
24 a restricted-use or highly toxic pesticide.

25 “[12] (14) ‘Pesticide equipment’ means any equipment, machinery or de-  
26 vice used in the actual application of pesticides, including aircraft and  
27 ground spraying equipment.

28 “[13] (15) ‘Pesticide operator’ means a person who owns or operates a  
29 business engaged in the application of pesticides upon the land or property  
30 of another.

1       “[(14)] **(16)** ‘Pesticide trainee’ means an individual who:

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

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

5       “[(15)] **(17)** ‘Private applicator’ means an individual who uses or super-  
6       vises the use of any pesticide, classified by the department as a restricted-use  
7       or highly toxic pesticide, for the purpose of producing agricultural commod-  
8       ities or forest crops on land owned or leased by the individual or the em-  
9       ployer of the individual.

10       “[(16)] **(18)** ‘Professed standard of quality’ means a plain and true state-  
11       ment of the name and percentage of each active ingredient and the total  
12       percentage of all inert ingredients contained in any pesticide.

13       “[(17)] **(19)** ‘Protected area’ means an area established under the pro-  
14       visions of this chapter to prohibit or restrict the application of pesticides.

15       “[(18)] **(20)** ‘Public applicator’ means an individual who is an employee  
16       of the State of Oregon or its agencies, counties, cities, municipal corpo-  
17       rations, other governmental bodies or subdivisions thereof, irrigation dis-  
18       tricts, drainage districts and public utilities and telecommunications utilities  
19       and who performs or carries out the work, duties or responsibilities of a  
20       pesticide applicator.

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

27       “[(20)] **(22)** ‘Registrant’ means a person registering any pesticide pursuant  
28       to this chapter.

29       “[(21)] **(23)** ‘Restricted area’ means an area established under the pro-  
30       visions of this chapter to restrict, but not prohibit, the application of pesti-

1 cides.

2 “[22] (24) ‘Restricted-use pesticide’ means any pesticide or device that  
3 the department has found and determined to be so injurious or detrimental  
4 to humans, pollinating insects, bees, animals, crops, wildlife, land or envi-  
5 ronment, other than the pests it is intended to prevent, destroy, control or  
6 mitigate, that additional restrictions are required.

7 **“(25) ‘Trainee’ means a pesticide trainee, public trainee or non-  
8 commercial pesticide 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  
12 Department of Agriculture, shall develop educational materials regarding the  
13 best practices for avoiding adverse effects from pesticides on populations of  
14 bees and other pollinating insects.

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

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

23 “(d) The department shall make the educational materials described in  
24 this section a part of the education required for taking the pesticide  
25 applicator licensing examination under ORS 634.122 **and section 2 of this  
26 2022 Act.**

27 “(2)(a) Oregon State University, in consultation with the State Depart-  
28 ment of Agriculture, the State Forestry Department, the Department of  
29 Transportation and the State Department of Fish and Wildlife shall develop  
30 and annually revise a pollinator health outreach and education plan to edu-



1 cate the public regarding the best practices for increasing habitat for bees  
2 and other pollinating insects and avoiding adverse effects from pesticides on  
3 populations of bees and other pollinating insects. The plan shall include:

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

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

11 “(b) Oregon State University, including a representative of the university  
12 who specializes in pollinator health, the State Department of Agriculture,  
13 the State Forestry Department, the Department of Transportation and the  
14 State Department of Fish and Wildlife shall conduct an annual meeting to:

15 “(A) Confer regarding the activities that the university and each agency  
16 undertook to promote pollinator health and increases in pollinator habitat  
17 in accordance with the plan developed under paragraph (a) of this subsection;  
18 and

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

21 “(3) The State Department of Agriculture shall develop a bee incident  
22 reporting system to facilitate public reporting of incidents related to  
23 pollinator health to the department.

24 “(4) Oregon State University, in consultation with the State Department  
25 of Agriculture, shall develop a pesticide use safety plan to educate the public  
26 regarding best practices in the use of pesticides. The plan shall include:

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

1 public; and

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

4 **“SECTION 6.** ORS 634.112 is amended to read:

5 “634.112. (1) Except as provided in ORS 634.142 (2), any license or certifi-  
6 cate issued or required of a pesticide consultant, dealer, operator,  
7 applicator, private applicator, **noncommercial applicator** or trainee by this  
8 chapter shall expire on December 31 following issuance or on such date as  
9 may be specified by rule of the State Department of Agriculture. At least 30  
10 days prior to the expiration date, the department shall by mail notify each  
11 person holding a license or certificate of the expiration date thereof.

12 “(2) Applications for all licenses or certificates required of a pesticide  
13 consultant, dealer, operator, applicator, private applicator, **noncommercial**  
14 **applicator** or trainee, or renewal thereof, shall be made to the department  
15 on forms prescribed by the department and accompanied by the prescribed  
16 fee.

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

19 “(4) Nothing in this chapter shall be construed as requiring a person,  
20 helping or assisting in the application of pesticides by a licensed pesticide  
21 applicator, **licensed noncommercial pesticide applicator** or certified pri-  
22 vate applicator or the pesticide application business through the performance  
23 of manual labor only, to obtain a license or certificate, if the actual appli-  
24 cation of pesticides is made by:

25 “(a) A licensed pesticide applicator, **licensed noncommercial pesticide**  
26 **applicator** or a certified private applicator; or

27 “(b) A person applying pesticides under ORS 634.106.

28 “(5) Failure to pay the renewal license fees when due by a pesticide con-  
29 sultant, dealer, operator, [or] applicator[,] **or noncommercial applicator,**  
30 or failure to pay the renewal certificate fees by a trainee, shall forfeit the

1 right to engage in the activities of a pesticide consultant, dealer, operator,  
2 applicator, **noncommercial applicator** or trainee, as the case may be. Any  
3 person whose pesticide consultant, dealer, operator, [or] applicator **or non-**  
4 **commercial applicator** license, or trainee certificate, has been forfeited,  
5 shall not be issued a license, certificate or renewal license or renewal cer-  
6 tificate except upon written application to the department accompanied by  
7 a sum of money equal to the license or certificate fee which should have been  
8 paid.

9 “(6) If such person is a pesticide consultant, [or] applicator **or noncom-**  
10 **mercial applicator** and does not pay the license fee during the first month  
11 in which the license fee is delinquent, thereafter such pesticide consultant,  
12 [or] applicator **or noncommercial applicator** shall not only pay the re-  
13 quired license fee but shall also obtain a passing grade in a reexamination  
14 given by the department for pesticide applicators as prescribed in ORS  
15 634.122, or otherwise demonstrate knowledge of the subject to the satisfac-  
16 tion of the department.

17 “(7) No penalty reexamination shall be required of a person whose appli-  
18 cation for renewal of a license or certificate is accompanied by a signed  
19 statement that prior to the application the person has not operated or  
20 worked as a pesticide consultant, applicator, **noncommercial applicator** or  
21 trainee, as the case may be, during the previous six months or since the ex-  
22 piration date of the last license or certificate of the person, whichever time  
23 is less. If the department later verifies this signed statement is false, then  
24 notwithstanding the provisions of ORS chapter 183, the department may im-  
25 mediately suspend the license or certificate which was issued as a result of  
26 such statement. Such suspension shall only be removed after the person has  
27 complied with the applicable provisions of subsections (5) and (6) of this  
28 section.

29 **“SECTION 7.** ORS 634.128 is amended to read:

30 “634.128. (1) An individual may not spray or otherwise apply a pesticide

1 by aircraft unless the individual holds a valid aerial pesticide applicator  
2 certificate issued by the State Department of Agriculture.

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

5 “(a) Is a licensed pesticide applicator, licensed public applicator, **licensed**  
6 **noncommercial pesticide applicator** or certified private applicator;

7 “(b) Passes a national examination, or other examination approved by the  
8 department, testing the knowledge of the individual regarding proper spray-  
9 ing and other application of pesticides by aircraft;

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

12 “(d) Has 50 or more hours of experience as a licensed pesticide applicator,  
13 licensed public applicator, **licensed noncommercial pesticide applicator**  
14 or certified private applicator, or as a pesticide trainee, [*or*] public trainee  
15 **or noncommercial pesticide trainee** under the supervision of a certified  
16 aerial pesticide applicator, on flights conducted for the purpose of carrying  
17 out, or training to carry out, spraying or otherwise applying pesticides by  
18 aircraft; and

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

20 “(3) In determining appropriate examinations for approval under sub-  
21 section (2)(b) of this section, the department shall give consideration to any  
22 examination of aerial pesticide applicator competency developed or approved  
23 by a national organization of state agencies that regulate agriculture.

24 “(4)(a) The department shall establish a term for aerial pesticide  
25 applicator certificates, not to exceed five years. The department shall sus-  
26 pend or revoke the certificate if the certificate holder fails to maintain a  
27 valid pesticide applicator license, public applicator license, **noncommercial**  
28 **pesticide applicator license** or private applicator certificate. Except as  
29 provided in paragraph (b) of this subsection, an aerial pesticide applicator  
30 certificate may be renewed.

1       “(b) The certificate holder may renew an aerial pesticide applicator cer-  
2 tificate only if, during the preceding five years, the holder successfully  
3 completed at least 10 credit hours in programs of instruction or educational  
4 courses satisfactory to the department and related to the spraying or other  
5 application of pesticides by aircraft. In determining whether programs of  
6 instruction or educational courses are satisfactory for purposes of this sub-  
7 section, the department shall consult with professional associations or other  
8 organizations serving aerial applicators of pesticides or with a national or-  
9 ganization of state agencies that regulate agriculture. The department shall  
10 count any credit hours in satisfactory programs of instruction or educational  
11 courses described in this subsection toward any instruction or education re-  
12 quirements imposed by the department for the renewal of a pesticide  
13 applicator license **or noncommercial pesticide applicator license.**

14       “(5) If a certificate holder is licensed as a public applicator, the certif-  
15 icate holder may spray or otherwise apply pesticides by aircraft only to  
16 properties described in ORS 634.116 (12).

17       “**SECTION 8.** ORS 634.306 is amended to read:

18       “634.306. In accordance with the provisions of ORS chapter 183, the State  
19 Department of Agriculture may adopt rules to carry out the purposes and  
20 intent of this chapter, including but not limited to rules that:

21       “(1) Establish and maintain a program required for an individual to work  
22 or engage in the application or other use of pesticides as a pesticide trainee  
23 **or noncommercial pesticide trainee.** In this regard, the department may  
24 take into consideration:

25       “(a) Requirements for submission of applications by pesticide trainees **or**  
26 **noncommercial pesticide trainees.**

27       “(b) Minimum and maximum periods of work or experience required for  
28 pesticide trainees **or noncommercial pesticide trainees.**

29       “(c) Work performance records or reports to be maintained by pesticide  
30 trainees, **noncommercial pesticide trainees** or their employers.

1 “(d) Acceptance of educational qualifications, applicable work or experi-  
2 ence in similar or other fields in lieu of, or as a part of, periods of employ-  
3 ment or work by pesticide trainees **or noncommercial pesticide trainees.**

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

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

10 “(g) Special requirements if the pesticide trainee **or noncommercial**  
11 **pesticide trainee** is to assist a pesticide applicator **or noncommercial**  
12 **pesticide applicator** in the spraying or other application of pesticides by  
13 aircraft, and the advisability of allowing participation in federal flight  
14 training programs to be substituted, all or in part, for training requirements  
15 under this chapter.

16 “(2) Establish and maintain classifications of the various pesticides and  
17 of the various pest control or pesticide application businesses in order to  
18 facilitate the licensing or certification and regulation of pesticide consult-  
19 ants, operators, applicators, **noncommercial applicators**, private  
20 applicators and trainees. In this regard the department may take into con-  
21 sideration:

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

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

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

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

30 “(4) Establish and maintain classifications of pesticides and devices that

1 are deemed to be highly toxic or restricted-use pesticides or devices. In this  
2 regard, the department shall take into consideration:

3 “(a) Laws and regulations of the federal government, including the pro-  
4 visions of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C.  
5 136 et seq., as amended, and the Federal Environmental Pesticide Control  
6 Act of 1972, 86 Stat. 973.

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

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

10 “(5) Establish and maintain types of pesticide consultant, [or] applicator  
11 **or noncommercial applicator** examinations and reexaminations, schedules  
12 for required reexaminations and other measures deemed necessary for fair  
13 and reasonable testing of applicants as provided in ORS 634.122 (5) **and**  
14 **section 2 (5) of this 2022 Act.**

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

20 “(a) Changes in climate or seasons.

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

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

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

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

27 “(8) Establish and maintain programs of instruction or educational  
28 courses for pesticide consultants, operators, applicators, **noncommercial**  
29 **applicators** and private applicators in cooperation with Oregon State Uni-  
30 versity or others, wherein, as far as is practicable, provisions are made so

1 as to allow the pesticide operators and applicators to participate only in the  
2 instruction or courses directly or indirectly related to their particular ac-  
3 tivities. Attendance of licensees may be required.

4 “(9) Prepare and distribute a manual, or other form of publication, con-  
5 taining information helpful and beneficial to individuals engaged in pesticide  
6 application or use or to persons preparing to qualify for licensing as a pes-  
7 ticide operator, consultant, [*or*] applicator **or noncommercial applicator**  
8 and establish charges therefor.

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

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

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

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

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

24 “(a) Laws and regulations of the federal government, including the pro-  
25 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.  
26 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136  
27 et seq., as amended thereby, and regulations thereunder.

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

30 “(c) Forms and types of private applicator certificates to be issued by the



1 department, authorizing private applicators to apply pesticides in all or part  
2 of the classifications of pesticides set forth in subsection (4) of this section.

3 **“SECTION 9.** ORS 634.372 is amended to read:

4 “634.372. A person may not:

5 “(1) Make false or misleading claims through any media, relating to the  
6 effect of pesticides or application methods to be utilized.

7 “(2) As a pesticide applicator, **noncommercial applicator, public**  
8 **applicator** or **pesticide** operator, intentionally or willfully apply or use a  
9 worthless pesticide or any pesticide inconsistent with its labeling, or as a  
10 pesticide consultant or dealer, recommend or distribute such pesticides.

11 “(3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other  
12 application device or equipment.

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

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

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

19 “(7) Operate pesticide applicators’ apparatus, machinery or equipment  
20 without a licensed pesticide applicator, **licensed noncommercial pesticide**  
21 **applicator** or certified private applicator performing the actual application,  
22 or supervising such application if such is performed by a pesticide trainee.  
23 This prohibition does not apply to the operation of tractors, trucks or other  
24 vehicular equipment used only under the supervision of a certified private  
25 applicator.

26 “(8) As a pesticide applicator **or noncommercial pesticide applicator,**  
27 work or engage in the application of any classes of pesticides without first  
28 obtaining and maintaining a pesticide [*applicator’s*] **applicator** license **or**  
29 **noncommercial applicator license,** or apply pesticides that are not specif-  
30 ically authorized by such license.

1       “(9) As a pesticide operator, engage in the business of, or represent or  
2 advertise as being in the business of, applying pesticides upon the land or  
3 property of another, without first obtaining and maintaining a pesticide  
4 operator’s license. The operator also may not engage in a class of pesticide  
5 application business that is not specifically authorized by license issued by  
6 the State Department of Agriculture. The operator also may not employ or  
7 use any person to apply or spray pesticides who is not a licensed pesticide  
8 applicator or pesticide trainee.

9       “(10) As a pesticide trainee, **noncommercial pesticide trainee or public**  
10 **trainee**, work or engage in the application of any class of pesticides without  
11 first obtaining and maintaining a pesticide trainee’s certificate and [is] oth-  
12 erwise **being** in compliance with the provisions of this chapter.

13       “(11) Act as, or purport to be, a pesticide dealer or advertise as such  
14 without first obtaining and maintaining a pesticide dealer’s license.

15       “(12) Act as, or purport to be, a pesticide consultant without first ob-  
16 taining and maintaining a pesticide consultant’s license.

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

21       “(14) As a person described in ORS 634.106 (5), use power-driven pesticide  
22 application equipment or devices (use hand or backpack types only), or use  
23 or apply any pesticide other than those prescribed by the department.

24       “(15) Deliver, distribute, sell or offer for sale any pesticide that is mis-  
25 branded.

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

28       “(17) Formulate, deliver, distribute, sell or offer for sale any pesticide that  
29 has not been registered as required by ORS 634.016.

30       “(18) Formulate, deliver, distribute, sell or offer for sale any powdered

1 pesticide containing arsenic or any highly toxic fluoride that is not distinctly  
2 colored.

3 “(19) Distribute, sell or offer for sale any pesticide except in the  
4 manufacturer’s original unbroken package.

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

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

13 “(22) Sell, use or remove any pesticide or device subjected to a ‘stop sale,  
14 use or removal’ order until the pesticide or device has been released there-  
15 from as provided in ORS 634.322 (3).

16 **“SECTION 10.** ORS 634.725 is amended to read:

17 “634.725. If a school has followed the integrated pest management plan  
18 and nonchemical pest control measures were ineffective, subject to ORS  
19 634.730 the integrated pest management plan coordinator may authorize the  
20 application of a low-impact pesticide. The low-impact pesticide application  
21 must be made by a pesticide applicator, **a noncommercial pesticide**  
22 **applicator** or [by] a public applicator. The use of a pesticide applicator,  
23 **noncommercial pesticide applicator** or public applicator to make an ap-  
24 plication does not cancel, alter or reassign any of the duties imposed under  
25 ORS 634.740 or 634.750.

26 **“SECTION 11.** ORS 634.730 is amended to read:

27 “634.730. (1) Subject to subsection (2) of this section:

28 “(a) If the labeling of a pesticide product specifies a reentry time, a pes-  
29 ticide may not be applied to an area of a campus where the school expects  
30 students to be present before expiration of that reentry time.

1 “(b) If the labeling of a pesticide product does not specify a reentry time,  
2 a pesticide may not be applied to an area of a campus where the school ex-  
3 pects students to be present before expiration of a reentry time that the in-  
4 tegrated pest management plan coordinator determines to be appropriate  
5 based on the times at which students would normally be expected to be in  
6 the area, area ventilation and whether the area will be cleaned before stu-  
7 dents are present.

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

12 “(b) The application restrictions described in subsection (1)(b) of this  
13 section do not apply if the integrated pest management plan coordinator de-  
14 clares a pest emergency under subsection (3) of this section.

15 “(3) An integrated pest management plan coordinator, after consultation  
16 with school faculty and administration, may declare the existence of a pest  
17 emergency. If necessary, a pesticide other than a low-impact pesticide may  
18 be used to mitigate a declared pest emergency. If a pesticide is applied at a  
19 campus due to a pest emergency, the plan coordinator shall review the inte-  
20 grated pest management plan to determine whether modification of the plan  
21 might prevent future pest emergencies. The plan coordinator shall submit  
22 any recommendations for modification of the plan to the governing body. The  
23 governing body shall review and take formal action on the recommendations.

24 “**SECTION 12.** ORS 634.750 is amended to read:

25 “634.750. (1) If a pesticide is applied at a campus, the integrated pest  
26 management plan coordinator or a designee of the coordinator shall place the  
27 labeling information and material data safety sheet for the pesticide on file  
28 at a school on the campus. The plan coordinator or designee shall record  
29 and make available the following information:

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

1 “(b) The United States Environmental Protection Agency registration  
2 number assigned to the pesticide product;

3 “(c) The pest condition that prompted the application;

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

5 “(e) The approximate amount and concentration of pesticide product ap-  
6 plied;

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

8 “(g) The pesticide applicator, **noncommercial pesticide applicator** or  
9 public applicator license numbers and pesticide trainee, **noncommercial**  
10 **pesticide trainee** or public trainee certificate numbers of the persons ap-  
11 plying the pesticide;

12 “(h) The names of the persons applying the pesticide;

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

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

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

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

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

24

---