A-Engrossed

Senate Bill 426

Ordered by the Senate April 3
Including Senate Amendments dated April 3

Sponsored by Senators DEMBROW, PATTERSON, Representative HUDSON, Senator MANNING JR, Representatives NERON, NOSSE, REYNOLDS; Senators CAMPOS, TAYLOR (Presession filed.)

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.

[Modifies requirements of] Directs State Department of Agriculture to perform certain responsibilities related to Healthy and Safe Schools Plan [related to integrated pest management]. Requires Department of Education to [provide technical assistance to districts and schools regarding] develop process for updating and implementing school integrated pest management plans. [Requires department to establish recommendations for limiting and reducing exposure to pesticides.]

Directs department to convene Healthy and Safe Schools Integrated Pest Management Advisory Committee.

Directs department to provide grants to [three] school districts to test [applicability of] electronic pesticide applicator records system.

[Requires governing bodies of schools to implement certain record keeping and reporting requirements related to school integrated pest management.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to school integrated pest management; creating new provisions; amending ORS 332.331, 332.334, 634.700 and 634.705; and prescribing an effective date.

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

SECTION 1. ORS 332.331 is amended to read:

332.331. (1) A school district, education service district or public charter school shall develop and adopt a plan, to be known as the Healthy and Safe Schools Plan, for the district or school. The plan must address environmental conditions at the facilities owned or leased by the district or school where students or staff are present on a regular basis. The Department of Education, in consultation with the Oregon Health Authority, the Department of Environmental Quality, the State Department of Agriculture and other interested stakeholders, shall develop a model plan to provide guidance to the districts and schools in developing and adopting plans under this section.

(2) A school district, education service district or public charter school shall provide a copy of a plan developed and adopted under this section to the Department of Education. The district or school shall annually review the plan. If the information contained in a plan has changed since the preceding annual review due to the acquisition or remodeling of a facility, the termination of regular use of the facility by students and staff or a modification in the method, location, scope, frequency or other aspects of addressing environmental conditions, the district or school shall revise the plan as necessary to address the change in information and provide a copy of the revised plan to the department.

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.

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(3) A plan developed and adopted under this section must, at a minimum, include the following:
   (a) The identification of, and contact information for, a position within the administration of the school district, education service district or public charter school having responsibility for maintaining and overseeing performance of the plan.
   (b) A list of all facilities of the school district, education service district or public charter school that are subject to the plan.
   (c) Provisions regarding testing for, and reducing exposure to, elevated levels of lead in water used for drinking or food preparation as required under guidelines adopted by the authority.
   (d) Provisions consistent with the United States Environmental Protection Agency Renovation, Repair and Painting Rule set forth in 40 C.F.R. section 745 regarding testing for, and reducing exposure to, lead-based paint.
   (e) Provisions consistent with federal law regarding testing for, and reducing exposure to, asbestos.
   (f) Provisions consistent with ORS 332.345 regarding testing for, and reducing exposure to, elevated levels of radon.
   (g) Provisions for carrying out integrated pest management as provided under ORS 634.700 to 634.750.
   (h) Provisions for installing carbon monoxide detection devices in proximity to fuel burning appliances that emit carbon monoxide, if installation is required under the state building code.
   (4) A plan described in subsection (3) of this section must provide for any laboratory analysis on test samples to be carried out by a laboratory having a type and level of accreditation recognized as appropriate by the authority.
   (5) The authority, in consultation with the department, school districts, education service districts, public charter schools and other interested stakeholders, may provide districts and schools with recommendations regarding evidence-based practices for the reduction of environmental conditions not addressed in subsection (3) of this section that may present health concerns if present in district or school facilities. The recommendations may include, but need not be limited to, recommendations regarding:
      (a) Methods for limiting or reducing exposure to high levels of diesel engine exhaust; and
      (b) Identification of mold, including but not limited to advice regarding how to recognize the presence of mold.
   (6) The authority and the State Department of Agriculture shall develop information sheets for use by school districts, education service districts and public charter schools to inform staff, students, parents of minor students and other interested stakeholders about substances that may present health concerns if present in district or school facilities.
   (7) The Department of Education, in consultation with the authority, representatives of school districts, education service districts and public charter schools and other interested stakeholders, shall make opportunities for professional development available to district and school staff regarding plan requirements under this section and the provision of information as required under ORS 332.334.
   (8) The Department of Education, in consultation with the State Department of Agriculture, shall develop a process that may be used by district and school staff to update and implement integrated pest management plans under ORS 634.700 to 634.750. In developing the process, the Department of Education shall engage in outreach activities with school districts serving low-income and diverse populations and populations with proportionally higher
environmental burdens, as defined in ORS 182.535.

SECTION 2. ORS 332.334 is amended to read:

332.334. (1)(a) A school district, education service district or public charter school shall make the results of any testing conducted under a plan described in ORS 332.331 available to the public no later than 10 business days after receiving the test results. As used in this paragraph, “business day” means a day that is not a Saturday, a legal holiday under ORS 187.010 or 187.020 or a day on which the administrative headquarters for the district or school is closed.

(b) The district or school shall make the test results available:

(A) If the district or school maintains a public website, by posting the test results on the website;

(B) By sending electronic mail to staff, students and parents of minor students for whom the district or school has electronic mail addresses on file; and

(C) By making the test results available in printed form at the administrative headquarters for the district or school.

(2) A school district, education service district or public charter school shall provide an annual statement regarding the plan developed and adopted by the district or school under ORS 332.331.

The district or school shall provide the statement to:

(a) The governing body for the district or school;

(b) The parents of minor students; and

(c) Any students 18 years of age or older.

(3) The annual statement under subsection (2) of this section must include, but need not be limited to, the following information:

(a) Identification of, and contact information for, the position within the administration of the school district, education service district or public charter school having responsibility for maintaining and overseeing performance of the plan;

(b) Information regarding where copies of the plan are available;

(c) A certification that the district or school is in compliance with any testing requirements under the plan;

(d) Information about how to obtain the results of any testing conducted under the plan; and

(e) A summary of major exposure reduction activities conducted under the plan since the preceding annual statement.

(4) If a school district, education service district or public charter school maintains a publicly available website, the district or school shall post the annual statement described in subsection (3) of this section on the website. The district or school shall make the annual statement available in printed form at the administrative headquarters for the district or school.

(5) The Department of Education shall adopt, in consultation with the Oregon Health Authority, the State Department of Agriculture, representatives of school districts, education service districts and public charter schools and other interested stakeholders, rules for carrying out this section.

SECTION 3. (1) The Department of Education shall convene a Healthy and Safe Schools Integrated Pest Management Advisory Committee. The advisory committee shall consist of no more than 15 members appointed as follows:

(a) A representative of the State Department of Agriculture;

(b) A representative of the Oregon Health Authority;

(c) Representatives of urban and rural school districts, including a school administrator,
facility manager, integrated pest management plan coordinator and school garden manager;  
(d) At least one children’s health professional;  
(e) At least one representative of an environmental justice organization;  
(f) At least one representative of an environmental health organization;  
(g) A representative of the Oregon State University school integrated pest management  
program; and  
(h) Other education and health stakeholders, as determined by the Department of Edu-  
cation.  
(2) The advisory committee shall advise the Department of Education on:  
(a) Standardized practices to increase the transparency of the information required un-  
der ORS 634.750;  
(b) A process for the adoption of and updates to a model low-impact pesticide list that  
governing bodies, as defined in ORS 634.700, may adopt to satisfy the requirements of ORS  
634.705;  
(c) Recommendations for school integrated pest management plan coordinators and oth-  
ers for the implementation of an integrated pest management plan under ORS 634.700 to  
634.750;  
(d) Standardized practices for periodically updating and reviewing school integrated pest  
management plans; and  
(e) Technical assistance needed for school districts to better implement school integrated  
pest management plans and resources to support school districts in addressing implementa-  
tion problems.  
(3) The Department of Education shall determine the number and frequency of meetings  
to be held by the advisory committee.  

SECTION 4. (1) The Department of Education, in consultation with the State Department  
of Agriculture, shall provide grants to school districts to operate pilot programs to test an  
electronic pesticide applicator records system to determine if the system is suitable for sat-  
sifying the requirements of ORS 634.750.  
(2) Each school district operating a pilot program must implement the pesticide  
applicator records system no later than July 1, 2024, and use the system throughout the  
2024-2025 and 2025-2026 school years.  
(3) Each school district operating a pilot program must periodically provide progress re-  
ports to the Department of Education in the form and manner prescribed by the department.  
The Healthy and Safe Schools Integrated Pest Management Advisory Committee shall review  
the progress reports and advise the department on the suitability of the pesticide applicator  
records system for satisfying the requirements of ORS 634.750.  
(4) The Department of Education shall submit a report on the outcomes of the pilot  
programs in the manner provided by ORS 192.245, and may include recommendations for  
legislation, to the interim committees of the Legislative Assembly related to education no  
later than September 15, 2026.  

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropri-  
ated to the Department of Education, for the biennium beginning July 1, 2023, out of the  
General Fund, the amount of $_______, which may be expended for the purpose of providing  
grants under section 4 of this 2023 Act.  

SECTION 6. Section 4 of this 2023 Act is repealed on January 2, 2027.
SECTION 7. ORS 634.700 is amended to read:
634.700. As used in ORS 634.700 to 634.750:
(1) “Campus” means the buildings, other structures, playgrounds, athletic fields and parking lots of a school and any other areas on the school property that are accessed by students on a regular basis.
(2) “Governing body” means a board of directors, agency or other body or person having policymaking and general oversight responsibility for a community college district, education service district, school district, other unit of education governance, private school or other educational entity.
(3) “Integrated pest management plan” means a proactive strategy that:
(a) Focuses on the long-term prevention or suppression of pest problems through economically sound measures that:
(A) Protect the health and safety of students, staff and faculty;
(B) Protect the integrity of campus buildings and grounds;
(C) Maintain a productive learning environment; and
(D) Protect local ecosystem health;
(b) Focuses on the prevention of pest problems by working to reduce or eliminate conditions of property construction, operation and maintenance that promote or allow for the establishment, feeding, breeding and proliferation of pest populations or other conditions that are conducive to pests or that create harborage for pests;
(c) Incorporates the use of sanitation, structural remediation or habitat manipulation or of mechanical, biological and chemical pest control measures that present a reduced risk or have a low impact and, for the purpose of mitigating a declared pest emergency, the application of pesticides that are not low-impact pesticides;
(d) Includes regular monitoring and inspections to detect pests, pest damage and unsanctioned pesticide usage;
(e) Evaluates the need for pest control by identifying acceptable pest population density levels;
(f) Monitors and evaluates the effectiveness of pest control measures;
(g) Excludes the application of pesticides on a routine schedule for purely preventive purposes, other than applications of pesticides designed to attract or be consumed by pests;
(h) Excludes the application of pesticides for purely aesthetic purposes;
(i) Includes school staff education about sanitation, monitoring and inspection and about pest control measures;
(j) Gives preference to the use of nonchemical pest control measures suppression and exclusion strategies;
(k) Allows the use of low-impact pesticides if nonchemical pest control measures are ineffective; and
(L) Allows the application of a pesticide that is not a low-impact pesticide only to mitigate a declared pest emergency or if the application is by, or at the direction or order of, a public health official.
(4) “Low-impact pesticide” means a product that does not contain a pesticide product or active ingredient described in ORS 634.705 (5).
(5) “Pest” means:
(a) An insect or other arthropod;
(b) A weed, moss, slime or mildew or a plant disease caused by a fungus, bacterium or virus;
(c) A nematode, snail, slug, rodent or predatory animal;
(d) A bacterium, spore, virus, fungus or other microorganism that is harmful to human health;

or

(e) Other forms of plant or animal life that may infest or be detrimental to vegetation, humans, animals, structures, managed landscapes or other human environments.

(6) “Pest emergency” means an urgent need to eliminate or mitigate a pest situation that threatens:

(a) The health or safety of students, staff, faculty members or members of the public using the campus; or

(b) The structural integrity of campus facilities.

(7) “Registration number” means the pesticide registration number assigned by the United States Environmental Protection Agency.

(8) “School” means:

(a) A facility operating an Oregon prekindergarten or a federal Head Start program;
(b) A public or private educational institution offering education in all or part of kindergarten through grade 12;
(c) An education service district as defined in ORS 334.003;
(d) A community college as defined in ORS 341.005, for the community college’s own buildings and ground maintenance;
(e) The Oregon School for the Deaf; and
(f) A regional residential academy operated by the Oregon Youth Authority.

SECTION 8. ORS 634.705 is amended to read:

ORS 634.705. (1) The governing body responsible for a school shall adopt an integrated pest management plan for use on the campuses of the school. The governing body shall also adopt provisions for:

(a) Designating an integrated pest management plan coordinator;
(b) Identifying plan coordinator responsibilities;
(c) Giving notices under ORS 634.740;
(d) Retaining pesticide application records under ORS 634.750;
(e) Providing a process for responding to inquiries and complaints about noncompliance with the integrated pest management plan; and
(f) Conducting outreach to the school community about the school’s integrated pest management plan.

(2) If a governing body has control over only part of a building, a structure or property where a campus is located, the governing body may limit an integrated pest management plan to those parts of the building, structure or property over which the governing body exerts substantial control.

(3) A governing body is not required to adopt an integrated pest management plan for off-campus buildings, structures or property, notwithstanding any incidental use for instruction.

(4) Unless a governing body expressly provides otherwise, the application of a germicide, disinfectant, sanitizer, deodorizer, antimicrobial agent or insecticidal soap at a campus is not subject to the requirements for a pesticide application under an integrated pest management plan. However, this subsection does not permit the application at a campus of a germicide, disinfectant, sanitizer, deodorizer, antimicrobial agent or insecticidal soap that is a pesticide in a manner that is inconsistent with the goal of the integrated pest management plan.

(5) A governing body shall adopt and maintain a current list of low-impact pesticides for use
with the integrated pest management plan. The governing body may include any product on the list except products that:

(a) Contain a pesticide product or active ingredient that has the signal words “warning” or “danger” on the label; or

[(b) Contain a pesticide product classified as a human carcinogen or probable human carcinogen under the United States Environmental Protection Agency 1986 Guidelines for Carcinogen Risk Assessment; or]

[(c) Contain a pesticide product classified as carcinogenic to humans or likely to be carcinogenic to humans under the United States Environmental Protection Agency 2003 Draft Final Guidelines for Carcinogen Risk Assessment.]

(b) Contain a pesticide product classified as a human carcinogen, a probable human carcinogen or likely to be carcinogenic to humans under United States Environmental Protection Agency guidelines for carcinogen risk assessment.

SECTION 9. (1) The amendments to ORS 332.331, 332.334, 634.700 and 634.705 by sections 1, 2, 7 and 8 of this 2023 Act become operative on January 1, 2024.

(2) The Department of Education, the Oregon Health Authority and the State Department of Agriculture may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the Department of Education, the Oregon Health Authority or the State Department of Agriculture to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the Department of Education, the Oregon Health Authority and the State Department of Agriculture by the amendments to ORS 332.331, 332.334, 634.700 and 634.705 by sections 1, 2, 7 and 8 of this 2023 Act.

SECTION 10. The Department of Education shall convene the Healthy and Safe Schools Integrated Pest Management Advisory Committee under section 3 of this 2023 Act no later than January 1, 2024.

SECTION 11. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.