

Requested by Representative OWENS

**PROPOSED AMENDMENTS TO
HOUSE BILL 2687**

1 On page 1 of the printed bill, line 2, delete “prescribing an effective
2 date” and insert “declaring an emergency”.

3 Delete lines 4 through 30 and delete pages 2 through 7 and insert:

4 **“SECTION 1.** ORS 634.006, as amended by section 4, chapter 53, Oregon
5 Laws 2022,

6 “634.006. As used in this chapter unless the context requires otherwise:

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

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

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

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

21 “(5) ‘Highly toxic’ means a pesticide or device determined by the depart-

1 ment to be capable of causing severe injury, disease or death to human be-
2 ings.

3 “(6) ‘Indian tribe’ means a federally recognized Indian tribe in
4 Oregon, provided that the tribe engages in applicable pesticide use on
5 lands other than Indian country, as defined in 18 U.S.C. 1151.

6 “[6] (7) ‘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
10 land; or

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

14 “[7] (8) ‘Noncommercial pesticide applicator’ or ‘noncommercial
15 applicator’ means:

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

21 “(b) An individual who owns or is employed by a private school and who
22 performs or carries out the work, duties or responsibilities of a pesticide
23 applicator at the school’s campus, as defined in ORS 634.700.

24 “[8] (9) ‘Noncommercial pesticide trainee’ means an individual who is
25 working and engaged in a training program under a special certificate to
26 qualify as a noncommercial pesticide applicator and who performs or carries
27 out the work, duties or responsibilities of a pesticide trainee.

28 “[9] (10) ‘Person’ means:

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

30 “(b) A public body as defined in ORS 174.109; [and]

1 “(c) The federal government or any of its agencies; **and**

2 **“(d) An Indian tribe.**

3 “[~~(10)~~] **(11)** ‘Pesticide’ includes:

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

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

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

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

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

16 “(f) ‘Nematicide’ which means any substance or mixture of substances
17 intended for preventing, destroying, repelling or mitigating nematodes;

18 “(g) ‘Plant regulator’ which means any substance or mixture of substances
19 intended, through physiological action, to accelerate or retard the rate of
20 growth or rate of maturation or to otherwise alter the behavior of
21 ornamental or crop plants or the produce thereof, but does not include sub-
22 stances to the extent that they are intended as plant nutrients, trace ele-
23 ments, nutritional chemicals, plant inoculants or soil amendments; or

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

30 “[~~(11)~~] **(12)** ‘Pesticide applicator’ or ‘applicator’ means an individual who:

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

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

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

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

10 “[12] (13) ‘Pesticide consultant’ means a person who offers or supplies
11 technical advice, supervision, aid or recommendations to the user of pesti-
12 cides classified by the department as restricted-use or highly toxic pesticides,
13 whether licensed as a pesticide dealer or not.

14 “[13] (14) ‘Pesticide dealer’ means a person who sells, offers for sale,
15 handles, displays or distributes any pesticide classified by the department as
16 a restricted-use or highly toxic pesticide.

17 “[14] (15) ‘Pesticide equipment’ means any equipment, machinery or de-
18 vice used in the actual application of pesticides, including aircraft and
19 ground spraying equipment.

20 “[15] (16) ‘Pesticide operator’ means a person who owns or operates a
21 business engaged in the application of pesticides upon the land or property
22 of another.

23 “[16] (17) ‘Pesticide trainee’ means an individual who:

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

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

27 “[17] (18) ‘Private applicator’ means an individual who uses or super-
28 vises the use of any pesticide, classified by the department as a restricted-use
29 or highly toxic pesticide, for the purpose of producing agricultural commod-
30 ities or forest crops on land owned or leased by the individual or the em-

1 ployer of the individual.

2 “[18] (19) ‘Professed standard of quality’ means a plain and true state-
3 ment of the name and percentage of each active ingredient and the total
4 percentage of all inert ingredients contained in any pesticide.

5 “[19] (20) ‘Protected area’ means an area established under the pro-
6 visions of this chapter to prohibit or restrict the application of pesticides.

7 “[20] (21) ‘Public applicator’ means an individual who is an employee
8 of the State of Oregon or its agencies, counties, cities, municipal corpo-
9 rations, other governmental bodies or subdivisions thereof, irrigation dis-
10 tricts, drainage districts and public utilities and telecommunications
11 utilities, **or of an Indian tribe**, and who performs or carries out the work,
12 duties or responsibilities of a pesticide applicator.

13 “[21] (22) ‘Public trainee’ means an individual who is an employee of the
14 State of Oregon or its agencies, counties, cities, municipal corporations,
15 other governmental bodies or subdivisions thereof, irrigation districts,
16 drainage districts and public utilities and telecommunications [*utility*] **utili-**
17 **ties, or of an Indian tribe**, and who performs or carries out the work, du-
18 ties or responsibilities of a pesticide trainee.

19 “[22] (23) ‘Registrant’ means a person registering any pesticide pursuant
20 to this chapter.

21 “[23] (24) ‘Restricted area’ means an area established under the pro-
22 visions of this chapter to restrict, but not prohibit, the application of pesti-
23 cides.

24 “[24] (25) ‘Restricted-use pesticide’ means any pesticide or device that
25 the department has found and determined to be so injurious or detrimental
26 to humans, pollinating insects, bees, animals, crops, wildlife, land or envi-
27 ronment, other than the pests it is intended to prevent, destroy, control or
28 mitigate, that additional restrictions are required.

29 “[25] (26) ‘Trainee’ means a pesticide trainee, public trainee or non-
30 commercial pesticide trainee.

1 “[26] (27) ‘Weed’ means any plant that grows where not wanted.

2 “**SECTION 2.** ORS 634.116 is amended to read:

3 “634.116. (1) A pesticide operator’s license, or supplements thereto, shall
4 authorize the licensee to engage in one or more of the classes of pest control
5 or pesticide application business prescribed by the State Department of Ag-
6 riculture under ORS 634.306 (2). The department may not issue a pesticide
7 operator license to the United States, the State of Oregon or federal, state
8 or local agencies, instrumentalities, political subdivisions, counties, cities,
9 towns, municipal corporations, irrigation, drainage or other districts, [or]
10 other federal, state or local governmental bodies **or an Indian tribe.**

11 “(2) During a license period, and after a person has been issued a license
12 to engage in certain classes of pest control or pesticide application business
13 during a license period, the department upon receiving an additional appli-
14 cation and applicable fees, may authorize the licensee to engage in additional
15 classes of pest control or pesticide application business for the remainder of
16 the license period as prescribed in ORS 634.306 (2).

17 “(3)(a) The department shall establish a pesticide operator license fee not
18 to exceed \$90 for the first class of pest control or pesticide application
19 business as prescribed in ORS 634.306 (2) and not to exceed \$15 for each ad-
20 ditional class.

21 “(b) After a person makes first application for a specific license period,
22 if later during the same license period the person desires to engage in addi-
23 tional classes of pest control or pesticide application businesses, such person
24 shall pay the fee for each additional class established by the department not
25 to exceed \$20.

26 “(4) At least one owner or part owner of the pest control or pesticide
27 application business shall also obtain and maintain a pesticide applicator’s
28 license if the pesticide operator is a sole proprietorship or a partnership. At
29 least one officer or employee shall obtain and maintain a pesticide
30 applicator’s license if the pesticide operator is a corporation. If a pesticide

1 operator is found to be in violation of this subsection, the pesticide
2 operator's license, notwithstanding ORS chapter 183, is automatically sus-
3 pended until the pesticide operator is in compliance. If the business is owned
4 by one individual, the department shall make no charge for the pesticide
5 applicator license issued to the individual under ORS 634.122.

6 “(5) The department shall not issue or renew a pesticide operator's license
7 until the applicant or licensee has furnished evidence to the department, in
8 the form of a public liability policy issued by an insurance company qualified
9 to do business in Oregon, protecting the applicant or licensee against li-
10 ability for injury or death to persons and loss of or damage to property re-
11 sulting from the application of pesticides, or in lieu of a policy, has furnished
12 a deposit of cash, surety bond or other evidence of financial responsibility
13 acceptable to the department that may be applied by the department to the
14 payment of damages resulting from operator liability. However:

15 “(a) Except as required under paragraph (b) of this subsection, the finan-
16 cial responsibility required by this section shall not apply to damages or
17 injury to crops or real or personal property being worked upon by the ap-
18 plicant.

19 “(b) If the applicant or licensee is to be engaged in the business of con-
20 trolling or eradicating structural pests, or pests within a public or private
21 place, or pests within private or public places where food is served, prepared
22 or processed or where persons are regularly housed, the financial responsi-
23 bility required by this section shall apply to damages or injury to real or
24 personal property being worked upon, as well as all the other real and per-
25 sonal property set forth in this section.

26 “(6) The financial responsibility required by subsection (5) of this section
27 must be not less than \$25,000 for bodily injury to one or more persons and
28 not less than \$25,000 for property damage.

29 “(7) Notwithstanding the provisions of ORS chapter 183, if the licensed
30 pesticide operator fails to maintain the financial responsibility required by

1 subsections (5) and (6) of this section, the license is automatically suspended
2 until the department again verifies the pesticide operator is in compliance
3 with subsections (5) and (6) of this section. The liability insurance company
4 shall notify the department in writing at least 30 days prior to any cancel-
5 lation of an insurance policy required by this section.

6 “(8) Notwithstanding the provisions of ORS 105.810 and 105.815 or other
7 laws to the contrary, the amount of damages for which a pesticide operator
8 or pesticide applicator is liable as a result of use of pesticides, or financial
9 responsibility for the same is limited to actual damages only.

10 “(9) The department shall return the deposit required by subsection (5)
11 of this section to the pesticide operator if the pesticide operator at any time
12 establishes exemption from the financial responsibility requirements under
13 this chapter. After the expiration of two years from the date of an injury,
14 death, loss or damage, the department shall return any deposit remaining to
15 the pesticide operator or to the personal representative of the pesticide op-
16 erator except that the department shall not make a return if the department
17 has received notice that an action for damages arising out of the provisions
18 of this section has been filed against the pesticide operator for whom the
19 deposit was made, and the department has determined that the action is
20 pending or that any judgment resulting from the action remains unpaid.

21 “(10) If the pesticide operator is or employs a pesticide applicator to spray
22 or otherwise apply pesticides by aircraft, in addition to other provisions of
23 this section relating to financial responsibility, the department may by rule
24 allow the pesticide operator to reduce, suspend or terminate the liability
25 insurance, applicable to spraying or otherwise applying pesticides by air-
26 craft, and required by subsections (5) and (6) of this section during certain
27 periods of the year.

28 “(11) The department may by rule allow liability insurance policies re-
29 quired by subsections (5) and (6) of this section to include deductible clauses
30 of amounts to be determined by the department.

1 “(12)(a) The United States, the State of Oregon or federal, state or local
2 agencies, instrumentalities, political subdivisions, counties, cities, towns,
3 municipal corporations, irrigation, drainage or other districts, [or] other
4 federal, state or local governmental bodies **or Indian tribes** are not required
5 to obtain a license as a pesticide operator or to furnish evidence of financial
6 responsibility to the department when:

7 “(A) Applying pesticides to property under their ownership, possession,
8 control or jurisdiction;

9 “(B) Applying pesticides pursuant to an order issued by the department
10 for purposes of controlling or eradicating noxious weeds or pests; or

11 “(C) Applying pesticides to property under the ownership, possession,
12 control or jurisdiction of another federal, state or local agency,
13 instrumentality, political subdivision, county, city, town, municipal corpo-
14 ration, irrigation, drainage or other district, **of another** [or other] federal,
15 state or local governmental body, **of an Indian tribe** or of a homeowners
16 association as defined under ORS 94.550 if:

17 “(i) The land is in a jurisdiction adjacent to property under their owner-
18 ship, possession, control or jurisdiction;

19 “(ii) The application is done in conjunction with, or as an extension of,
20 an application of pesticides to property under their ownership, possession,
21 control or jurisdiction; and

22 “(iii) The pesticide application is done on a cost recovery, cooperative
23 trade of services or no cost basis, and not as a source for profit.

24 “(b) A public utility or telecommunications utility is not required to ob-
25 tain a license as a pesticide operator or to furnish evidence of financial re-
26 sponsibility to the department when applying pesticides to property under
27 the ownership, possession or control of the utility.

28 “(c) In addition to any application allowed under paragraph (a) of this
29 subsection, a vector control district is not required to obtain a license as a
30 pesticide operator or to furnish evidence of financial responsibility to the

1 department when applying pesticides for the prevention, control or
2 eradication of a public health vector as defined in ORS 452.010 to property
3 under the ownership, possession, control or jurisdiction of another federal,
4 state or local agency, instrumentality, political subdivision, county, city,
5 town, municipal corporation, irrigation, drainage or other district or other
6 federal, state or local governmental body or of a homeowners association as
7 defined under ORS 94.550 if the pesticide application is done on a cost re-
8 covery, cooperative trade of services or no cost basis, and not as a source
9 of profit.

10 “(13) Subject to subsection (15) of this section, the employees of the
11 agencies, instrumentalities, subdivisions, counties, cities, towns, municipal
12 corporations, districts, governmental bodies, **Indian tribes** or utilities de-
13 scribed in subsection (12) of this section who perform or carry out the work,
14 duties or responsibilities of a pesticide applicator are subject to the pro-
15 visions of this chapter, except they shall be issued ‘public applicator’ licenses
16 or, if they carry out the work, duties or responsibilities of a pesticide
17 trainee, shall be issued ‘public trainee’ certificates, if they otherwise comply
18 or qualify with the provisions of this chapter relating thereto.

19 “(14) The public applicator license or public trainee certificate shall be:

20 “(a) Issued by the department upon payment of the fee for the pesticide
21 applicator license or pesticide trainee certificate.

22 “(b) Valid and used by the licensee or certificate holder only when ap-
23 plying pesticides as described in subsection (12) of this section.

24 “(c) Renewed, suspended or revoked each year in the same manner, under
25 the same provisions and at the same time as other pesticide applicator li-
26 censes and trainee certificates are renewed, suspended or revoked.

27 “(15) The provisions of subsection (13) of this section apply only to:

28 “(a) The application of restricted-use pesticides;

29 “(b) The application of any pesticide by using a machine-powered device;

30 or

