

House Bill 3482

Sponsored by Representative HOLVEY

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 **as introduced**.

Requires state agency or local government to keep records of pesticide applications made by public applicator or public trainee employed by state agency or local government. Requires state agency or local government to report pesticide application information to Department of Environmental Quality.

Requires pesticide operator to keep records of pesticide applications made by pesticide applicator or pesticide trainee employed by operator. Requires pesticide operator to report pesticide application information to department.

Requires department and Oregon Health Authority to jointly develop pesticide application reporting forms.

Requires State Department of Agriculture to use pesticide application information reported to Department of Environmental Quality when State Department of Agriculture prepares pesticide use reporting system information.

Applies to pesticide applications made on or after January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to pesticide application reporting; creating new provisions; amending ORS 634.146 and
3 sections 4 and 8, chapter 1059, Oregon Laws 1999; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 634.**

6 **SECTION 2. (1) As used in this section, "local government" has the meaning given that**
7 **term in ORS 174.116.**

8 **(2) Each state agency or local government shall prepare and maintain a record on a form**
9 **approved under section 3 of this 2015 Act for each pesticide application made by a public**
10 **applicator or public trainee employed by the state agency or local government.**

11 **(3) The record shall include:**

12 **(a) The name of the state agency or local government for which the pesticide was applied.**

13 **(b) The approximate location of the land or property on which the pesticide was applied.**

14 **(c) The date and approximate time of application.**

15 **(d) The person who supplied the pesticides.**

16 **(e) The trade name and the strength of the pesticides.**

17 **(f) The amount or concentration (pounds or gallons per acre of active ingredient or con-**
18 **centration per approximately 100 gallons).**

19 **(g) The specific property to which the pesticide was applied.**

20 **(h) The summary information of equipment, devices or apparatus used and, if applied by**
21 **aircraft, the Federal Aviation Administration number.**

22 **(i) The names of the public applicator or public trainee who did the actual application or**
23 **spraying.**

24 **(4) The state agency or local government shall report the record information for each**

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 pesticide application to the Department of Environmental Quality, or post the information
 2 to a website designated by that department no later than the earlier of:

3 (a) Forty-eight hours after the department requests the information; or

4 (b) Twenty days after the date of the pesticide application.

5 (5) The state agency or local government shall keep a record for a period of at least three
 6 years after the date of application of the pesticide and shall make the record available during
 7 business hours for review and inspection by the Oregon Health Authority or the Department
 8 of Environmental Quality.

9 **SECTION 3.** (1) The Oregon Health Authority and the Department of Environmental
 10 Quality shall jointly develop and approve a form for recording and reporting pesticide appli-
 11 cation information under ORS 634.146 and section 2 of this 2015 Act.

12 (2) The Department of Environmental Quality shall collect the pesticide application re-
 13 cord information reported to the department under ORS 634.146 and section 2 of this 2015
 14 Act. Upon request, the department may supply the information to another state agency or
 15 a local government. The department may charge a state agency or local government a rea-
 16 sonable fee for providing the information. Information described in ORS 634.146 (1)(a), (g) or
 17 (i) that is reported to the department or is provided by the department to another state
 18 agency or a local government is a trade secret as defined in ORS 192.501 (2). This subsection
 19 does not supersede any requirement to give notice under ORS 527.670 of a forest operation
 20 that includes a planned chemical application.

21 **SECTION 4.** ORS 634.146 is amended to read:

22 634.146. (1) [*Pesticide operators shall prepare and maintain records on forms approved by the State*
 23 *Department of Agriculture. Such records*] **A pesticide operator shall prepare and maintain a re-**
 24 **cord on a form approved under section 3 of this 2015 Act for each pesticide application made**
 25 **by a pesticide applicator or pesticide trainee employed by the operator. The record shall in-**
 26 **clude:**

27 (a) The name of the person for whom the pesticide was applied.

28 (b) The approximate location of the land or property on which the pesticide was applied.

29 (c) The date and approximate time of application.

30 (d) The person who supplied the pesticides.

31 (e) The trade name and the strength of such pesticides.

32 (f) The amount or concentration (pounds or gallons per acre of active ingredient or concen-
 33 tration per approximately 100 gallons).

34 (g) The specific property, crop or crops to which the pesticide was applied.

35 (h) The summary information of equipment, [*device*] **devices** or apparatus used and, if applied
 36 by aircraft, the Federal Aviation Administration number.

37 (i) The names of the pesticide applicator or pesticide trainees who did the actual application or
 38 spraying.

39 [*(2) The records, which shall be kept for a period of at least three years from the date of application*
 40 *of pesticides, shall be available during business hours for review and inspection by the department.*]

41 (2) **The pesticide operator shall report the record information for each pesticide applica-**
 42 **tion to the Department of Environmental Quality no later than the earlier of 48 hours after**
 43 **the department requests the information or 20 days after the date of the pesticide applica-**
 44 **tion.**

45 (3) **The pesticide operator shall keep a record for a period of at least three years after**

1 **the date of application of the pesticide and shall make the record available during business**
 2 **hours for review and inspection by the Oregon Health Authority or the Department of En-**
 3 **vironmental Quality.**

4 [(3)] (4) Upon receiving a request from any owner of field crops on which pesticides were ap-
 5 plied, [*the*] a pesticide operator within 40 days after making such application shall give or forward
 6 to the owner a written statement setting forth the information described in subsection (1)(a), (b), (c),
 7 (e), (f) and (g) of this section.

8 **SECTION 5.** Section 4, chapter 1059, Oregon Laws 1999, as amended by section 1, chapter 743,
 9 Oregon Laws 2005, and section 1, chapter 572, Oregon Laws 2009, is amended to read:

10 **Sec. 4.** (1) As used in this section, “fourth-level hydrologic unit” means the cataloging unit level
 11 of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Commit-
 12 tee.

13 (2) The State Department of Agriculture shall establish and implement a pesticide use reporting
 14 system to meet the need described in section 3, chapter 1059, Oregon Laws 1999. In establishing and
 15 implementing the system, the department shall:

16 (a) Design, develop and implement the system in order to collect, evaluate, summarize, retain
 17 and report information on the use of pesticides in each major category of use in Oregon, including
 18 agriculture, forestry, industrial, urban commercial and urban homeowner uses.

19 (b) At least one time each year, collect the best data practicable from each major category of
 20 pesticide use in a manner that reduces paperwork and reporting costs.

21 [*(c) Require all pesticide users to report basic information on their use of pesticides that*
 22 *includes:]*

23 [(A) *The location of use, identified as follows:]*

24 [(i) *For pesticide use within an urban area, as defined by the department by rule, the pesticide user*
 25 *shall report the location of use by identifying the five-digit zip code for the location.]*

26 [(ii) *For pesticide use that is not within an urban area, the pesticide user shall report the location*
 27 *of use by identifying the fourth-level hydrologic unit for the location.]*

28 [(iii) *To the extent authorized by the department by rule, notwithstanding any other provision of*
 29 *this subparagraph, for pesticide use on a utility or transportation right of way, the pesticide user may*
 30 *report the location of use by identifying the fourth-level hydrologic unit for the location or by identify-*
 31 *ing the right of way name and the beginning point and ending point global positioning system coordi-*
 32 *nates or milepost numbers. If the department receives a pesticide use report for which the location is*
 33 *identified by right of way information, the department shall determine the fourth-level hydrologic unit*
 34 *in which the right of way beginning point is located and shall use that fourth-level hydrologic unit for*
 35 *purposes of the annual report described in section 8, chapter 1059, Oregon Laws 1999.]*

36 [(B) *The name and United States Environmental Protection Agency registration number for the*
 37 *pesticide product used.]*

38 [(C) *The quantity of pesticide product applied.]*

39 [(D) *The purpose of and type of site of the application.]*

40 [(E) *The month of the application.]*

41 [(F) *Subject to section 8, chapter 1059, Oregon Laws 1999, other data gathered by pesticide*
 42 *applicators that the department considers necessary to achieve the purposes of section 3, chapter 1059,*
 43 *Oregon Laws 1999.]*

44 [(d)] (c) Develop a mechanism to ensure the accuracy, reliability and validity of the database
 45 by providing for an independent review of the pesticide use data and collection procedures by data

1 quality assurance specialists. **This paragraph does not apply to information provided to the**
 2 **department under subsection (3) of this section.**

3 [(e)] (d) Develop a specific mechanism to identify household and other urban uses of pesticides.
 4 If this mechanism involves sales reporting by retail pesticide dealers, the department shall develop
 5 a minimum monthly sales quantity below which the retail pesticide dealer is exempt from reporting.

6 (3) **For purposes of subsection (2)(b) of this section, best data practicable regarding pes-**
 7 **ticide applications by public applicators, pesticide applicators, public trainees and pesticide**
 8 **trainees is the information reported to the Department of Environmental Quality under ORS**
 9 **634.146 and section 2 of this 2015 Act. Notwithstanding section 3 (2) of this 2015 Act, the**
 10 **Department of Environmental Quality shall provide the State Department of Agriculture**
 11 **with copies of pesticide application information reported under ORS 634.146 and section 2 of**
 12 **this 2015 Act without request and without charge.**

13 (4) **Except as provided in this subsection, the State Department of Agriculture shall re-**
 14 **port aggregated information regarding pesticide applications within urban areas by five-digit**
 15 **zip code. The department shall report aggregated information regarding pesticide applica-**
 16 **tions in nonurban areas by fourth-level hydrologic unit. The department may adopt rules to**
 17 **report urban applications on a utility or transportation right of way by fourth-level**
 18 **hydrologic unit.**

19 **SECTION 6.** Section 8, chapter 1059, Oregon Laws 1999, as amended by section 2, chapter 915,
 20 Oregon Laws 2001, section 2, chapter 743, Oregon Laws 2005, and section 2, chapter 572, Oregon
 21 Laws 2009, is amended to read:

22 **Sec. 8.** (1) In implementing the pesticide use reporting system, the State Department of Agri-
 23 culture shall, at a minimum:

24 (a) Publish an annual report summarizing the pesticide use data reported to the department
 25 under section 4, chapter 1059, Oregon Laws 1999. The report shall include:

26 (A) An analysis of trends in pesticide use;

27 (B) An assessment of pesticide use reporting data accuracy; and

28 (C) Pesticide use information summarized by zip code or fourth-level hydrologic unit as described
 29 in section [4 (2)(c)] 4 (4), chapter 1059, Oregon Laws 1999.

30 (b) Establish policy and adopt rules relating to the public release of data about pesticide sales
 31 or use consistent with the limitations provided in this section.

32 (2)(a) Data about pesticide use obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999,
 33 are confidential. **However, information the department receives under section 4 (3), chapter**
 34 **1059, Oregon Laws 1999, is confidential to the extent provided under section 3 of this 2015**
 35 **Act.** [*if the data would reveal the identity of the owner or lessee or the specific location of property*
 36 *where a person has applied a pesticide:]*

37 [(A) *For a private agricultural or forestry operation; or*]

38 [(B) *On private property or public property leased to a private person.*]

39 (b) Data about pesticide sales obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999,
 40 are confidential if the data would reveal a trade secret, as defined in ORS 646.461, of the retail
 41 outlet, multiple-outlet retailer or associated group of retailers that reports the data.

42 (c) The department may not collect pesticide use data under section 4, chapter 1059, Oregon
 43 Laws 1999, that would reveal the identity of the owner or lessee or the specific location of property
 44 where a person has applied a pesticide, other than pesticide location of use reported by reference
 45 to a right of way **or reported by a state agency or local government under section 2 of this**

1 **2015 Act.**

2 (3) The policy and rules that the department adopts under this section may not limit access to
3 data for the following purposes:

4 (a) Information obtained as part of any investigation under any other provision of law;

5 (b) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws
6 1999, to any other local, state or federal agency, if the local, state or federal agency has agreed to
7 maintain the confidentiality of any information that is required to be treated as confidential under
8 this section, unless the public interest by clear and convincing evidence requires disclosure in the
9 particular instance; and

10 (c) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws
11 1999, to a health or environmental researcher acting in an official capacity from an accredited uni-
12 versity or accepted research institute who agrees to maintain the confidentiality of any information
13 that is required to be treated as confidential under this section.

14 **SECTION 7. Section 2 of this 2015 Act and the amendments to ORS 634.146 and sections**
15 **4 and 8, chapter 1059, Oregon Laws 1999, by sections 4 to 6 of this 2015 Act apply to pesticide**
16 **applications made on or after January 1, 2016. The Oregon Health Authority and the De-**
17 **partment of Environmental Quality shall make the form described in section 3 of this 2015**
18 **Act available to state agencies, local governments and pesticide operators no later than De-**
19 **cember 31, 2015.**

20 **SECTION 8. This 2015 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
22 **on its passage.**

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