

House Bill 3549

Sponsored by COMMITTEE ON RULES

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 Forestry Department to collect and analyze information regarding sufficiency of existing legal requirements to protect certain areas in proximity to forestland from impacts due to application of pesticides by aircraft. Requires department to report findings to interim committee of Legislative Assembly no later than September 15, 2016.

Requires individual engaging in application of pesticides by aircraft to have aerial pesticide applicator certificate. Establishes qualifications for obtaining and maintaining certificate.

Authorizes State Department of Agriculture to suspend, revoke or refuse to renew license, certificate or other authorization if civil penalty is not paid within 90 days. Increases maximum amounts of certain civil penalties.

Defines "person" for purposes of pesticide control chapter.

Requires governing board of Pesticide Analytical and Response Center to develop standard operating procedures for implementation by public entities represented on board to coordinate receipt of, and response to, pesticide-related complaints indicating possible health or environmental effects. Requires board to report biennially to Legislative Assembly on activities of board and public entities represented on board regarding standard operating procedures.

Requires State Department of Agriculture to operate telephone line for receiving, and facilitating coordination of responses to, pesticide-related complaints by public indicating possible health or environmental effects. Requires department to report biennially to Legislative Assembly regarding telephone line operations.

Requires State Department of Agriculture to place information regarding pesticides on department website. Requires that information indicate pesticides and devices listed by department as highly toxic or restricted-use.

Increases maximum amount the State Department of Agriculture may establish as pesticide registration fee.

Allows State Department of Agriculture to require individual holding license, certificate or other authorization to retake examination if individual commits or has responsibility for violation indicating inadequate knowledge of pesticide laws and rules. Allows department to suspend, revoke or refuse to renew license, certificate or other authorization if individual fails retaken examination.

Makes provisions other than State Forestry Department study operative on either January 1, 2016, or January 1, 2017.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to pesticide control; creating new provisions; amending ORS 634.006, 634.016, 634.116,
3 634.126, 634.172, 634.306, 634.550 and 634.900; and declaring an emergency.

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

5 6 ADDITIONS TO PESTICIDE CHAPTER

7
8 **SECTION 1. Sections 3, 9, 10, 15 to 17 and 19 of this 2015 Act are added to and made a**
9 **part of ORS chapter 634.**

10 11 AERIAL APPLICATION STUDY

12
13 **SECTION 2. (1) As used in this section:**

14 **(a) "Forestland" has the meaning given that term in ORS 526.005.**

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 (b) "Pesticide" has the meaning given that term in ORS 634.006.

2 (2) The State Forestry Department, in consultation with the State Board of Forestry,
3 shall collect and analyze information regarding the sufficiency of existing legal requirements,
4 including but not limited to buffer zone requirements, to protect schools, homes, fish-bearing
5 streams and drinking water sources that are in proximity to forestland from impacts due to
6 the application of pesticides by aircraft. The department shall consider issues regarding the
7 protection of schools, homes, fish-bearing streams and drinking water sources from direct
8 application of the pesticides and from the drifting of the pesticides following application. In-
9 formation that the department relies upon for purposes of subsection (4) of this section must
10 be based on the best available science and focused on the need to protect human health.

11 (3) The department may undertake any actions reasonable or necessary to carry out its
12 duties under this section. All agencies of state government, as defined in ORS 174.111, are
13 directed to assist the department in the performance of its duties under this section and, to
14 the extent permitted by laws relating to confidentiality, to furnish such information and ad-
15 vice as the department considers necessary to perform its duties under this section.

16 (4) The department shall complete its work under this section and report the results to
17 an interim committee of the Legislative Assembly relating to natural resources no later than
18 September 15, 2016. The report shall include, but need not be limited to, recommendations
19 of the department regarding the need for, and size of, buffer zones to protect schools, homes,
20 fish-bearing streams and drinking water sources that are in proximity to forestland from
21 impacts due to the application of pesticides by aircraft.

22
23 **AERIAL APPLICATORS**
24

25 **SECTION 3.** (1) An individual may not spray or otherwise apply a pesticide by aircraft
26 unless the individual holds a valid aerial pesticide applicator certificate issued by the State
27 Department of Agriculture.

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

30 (a) Is a licensed pesticide applicator, licensed public applicator or certified private
31 applicator;

32 (b) Holds a valid commercial pilot certificate for the type of aircraft to be used by the
33 individual in applying pesticides;

34 (c) Has 50 or more hours of experience as a licensed pesticide applicator, licensed public
35 applicator or certified private applicator, or as a pesticide trainee or public trainee under the
36 supervision of a licensed pesticide applicator, licensed public applicator or certified private
37 applicator, on flights conducted for the purpose of carrying out, or training to carry out,
38 spraying or otherwise applying pesticides by aircraft; and

39 (d) Pays a certificate fee established by the department by rule.

40 (3)(a) The department shall establish a term for aerial pesticide applicator certificates,
41 not to exceed five years. The department shall suspend or revoke the certificate if the cer-
42 tificate holder fails to maintain a valid pesticide applicator license, public applicator license
43 or private applicator certificate. Except as provided in paragraph (b) of this subsection, an
44 aerial pesticide applicator certificate may be renewed.

45 (b) The certificate holder may renew an aerial pesticide applicator certificate only if,

1 **during the preceding five years, the holder successfully completed at least 10 credit hours in**
 2 **programs of instruction or educational courses satisfactory to the department and related**
 3 **to the spraying or other application of pesticides by aircraft. In determining whether pro-**
 4 **grams of instruction or educational courses are satisfactory for purposes of this subsection,**
 5 **the department shall consult with professional associations or other organizations serving**
 6 **aerial applicators of pesticides or with a national organization of state agencies that regulate**
 7 **agriculture. The department shall count any credit hours in satisfactory programs of in-**
 8 **struction or educational courses described in this subsection toward any instruction or edu-**
 9 **cation requirements imposed by the department for the renewal of a pesticide applicator**
 10 **license.**

11 **(4) If a certificate holder is licensed as a public applicator, the certificate holder may**
 12 **spray or otherwise apply pesticides by aircraft only to properties described in ORS 634.116**
 13 **(12).**

14 **SECTION 4.** Section 3 of this 2015 Act is amended to read:

15 **Sec. 3.** (1) An individual may not spray or otherwise apply a pesticide by aircraft unless the
 16 individual holds a valid aerial pesticide applicator certificate issued by the State Department of
 17 Agriculture.

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

19 (a) Is a licensed pesticide applicator, licensed public applicator or certified private applicator;

20 **(b) Passes a national examination, or other examination approved by the department,**
 21 **testing the knowledge of the individual regarding proper spraying and other application of**
 22 **pesticides by aircraft;**

23 [(b)] (c) Holds a valid commercial pilot certificate for the type of aircraft to be used by the in-
 24 dividual in applying pesticides;

25 [(c)] (d) Has 50 or more hours of experience as a licensed pesticide applicator, licensed public
 26 applicator or certified private applicator, or as a pesticide trainee or public trainee under the
 27 supervision of a [*licensed pesticide applicator, licensed public applicator or certified private*
 28 *applicator*] **certified aerial pesticide applicator**, on flights conducted for the purpose of carrying
 29 out, or training to carry out, spraying or otherwise applying pesticides by aircraft; and

30 [(d)] (e) Pays a certificate fee established by the department by rule.

31 **(3) In determining appropriate examinations for approval under subsection (2)(b) of this**
 32 **section, the department shall give consideration to any examination of aerial pesticide**
 33 **applicator competency developed or approved by a national organization of state agencies**
 34 **that regulate agriculture.**

35 [(3)(a)] (4)(a) The department shall establish a term for aerial pesticide applicator certificates,
 36 not to exceed five years. The department shall suspend or revoke the certificate if the certificate
 37 holder fails to maintain a valid pesticide applicator license, public applicator license or private
 38 applicator certificate. Except as provided in paragraph (b) of this subsection, an aerial pesticide
 39 applicator certificate may be renewed.

40 (b) The certificate holder may renew an aerial pesticide applicator certificate only if, during the
 41 preceding five years, the holder successfully completed at least 10 credit hours in programs of in-
 42 struction or educational courses satisfactory to the department and related to the spraying or other
 43 application of pesticides by aircraft. In determining whether programs of instruction or educational
 44 courses are satisfactory for purposes of this subsection, the department shall consult with profes-
 45 sional associations or other organizations serving aerial applicators of pesticides or with a national

1 organization of state agencies that regulate agriculture. The department shall count any credit
 2 hours in satisfactory programs of instruction or educational courses described in this subsection
 3 toward any instruction or education requirements imposed by the department for the renewal of a
 4 pesticide applicator license.

5 [(4)] (5) If a certificate holder is licensed as a public applicator, the certificate holder may spray
 6 or otherwise apply pesticides by aircraft only to properties described in ORS 634.116 (12).

7 **SECTION 5.** ORS 634.116 is amended to read:

8 634.116. (1) A pesticide operator's license, or supplements thereto, shall authorize the licensee
 9 to engage in one or more of the classes of pest control or pesticide application business prescribed
 10 by the State Department of Agriculture under ORS 634.306 (2). The department may not issue a
 11 pesticide operator license to the United States, the State of Oregon or federal, state or local agen-
 12 cies, instrumentalities, political subdivisions, counties, cities, towns, municipal corporations, irri-
 13 gation, drainage or other districts or other federal, state or local governmental bodies.

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

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

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

26 (4) At least one owner or part owner of the pest control or pesticide application business shall
 27 also obtain and maintain a pesticide applicator's license if the pesticide operator is a sole
 28 proprietorship or a partnership. At least one officer or employee shall obtain and maintain a pesti-
 29 cide applicator's license if the pesticide operator is a corporation. If a pesticide operator is found
 30 to be in violation of this subsection, the pesticide operator's license, notwithstanding ORS chapter
 31 183, is automatically suspended until the pesticide operator is in compliance. If the business is
 32 owned by one individual, the department shall make no charge for the pesticide applicator license
 33 issued to the individual under ORS 634.122.

34 (5) The department shall not issue or renew a pesticide operator's license until the applicant
 35 or licensee has furnished evidence to the department, in the form of a public liability policy issued
 36 by an insurance company qualified to do business in Oregon, protecting the applicant or licensee
 37 against liability for injury or death to persons and loss of or damage to property resulting from the
 38 application of pesticides, or in lieu of a policy, has furnished a deposit of cash, surety bond or other
 39 evidence of financial responsibility acceptable to the department that may be applied by the de-
 40 partment to the payment of damages resulting from operator liability. However:

41 (a) Except as required under paragraph (b) of this subsection, the financial responsibility re-
 42 quired by this section shall not apply to damages or injury to crops, real or personal property being
 43 worked upon by the applicant.

44 (b) If the applicant or licensee is to be engaged in the business of controlling or eradicating
 45 structural pests, or pests within a public or private place, or pests within private or public places

1 where food is served, prepared or processed or where persons are regularly housed, the financial
2 responsibility required by this section shall apply to damages or injury to real or personal property
3 being worked upon, as well as all the other real and personal property set forth in this section.

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

6 (7) Notwithstanding the provisions of ORS chapter 183, if the licensed pesticide operator fails
7 to maintain the financial responsibility required by subsections (5) and (6) of this section, the license
8 is automatically suspended until the department again verifies the pesticide operator is in compli-
9 ance with subsections (5) and (6) of this section. The liability insurance company shall notify the
10 department in writing at least 30 days prior to any cancellation of an insurance policy required by
11 this section.

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

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

24 (10) If the pesticide operator is **or employs a pesticide applicator or private applicator cer-**
25 **tified under section 3 of this 2015 Act** to spray **or otherwise apply pesticides** by aircraft, [*then*
26 *the department,*] in addition to other provisions of this section relating to financial responsibility,
27 **the department** may by rule allow [*aircraft pesticide operators*] **the pesticide operator** to reduce,
28 suspend or terminate the liability insurance, applicable to spraying **or otherwise applying pesti-**
29 **cides** by aircraft, and required by subsections (5) and (6) of this section during certain periods of
30 the year.

31 (11) The department may by rule allow liability insurance policies required by subsections (5)
32 and (6) of this section to include deductible clauses of amounts to be determined by the department.

33 (12)(a) The United States, the State of Oregon or federal, state or local agencies, instrument-
34 alities, political subdivisions, counties, cities, towns, municipal corporations, irrigation, drainage or
35 other districts or other federal, state or local governmental bodies are not required to obtain a li-
36 cense as a pesticide operator or to furnish evidence of financial responsibility to the department
37 when:

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

39 (B) Applying pesticides pursuant to an order issued by the department for purposes of control-
40 ling or eradicating noxious weeds or pests; or

41 (C) Applying pesticides to property under the ownership, possession, control or jurisdiction of
42 another federal, state or local agency, instrumentality, political subdivision, county, city, town, mu-
43 nicipal corporation, irrigation, drainage or other district or other federal, state or local govern-
44 mental body or of a homeowners association as defined under ORS 94.550 if:

45 (i) The land is in a jurisdiction adjacent to property under their ownership, possession, control

1 or jurisdiction;

2 (ii) The application is done in conjunction with, or as an extension of, an application of pesti-
 3 cides to property under their ownership, possession, control or jurisdiction; and

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

6 (b) A public utility or telecommunications utility is not required to obtain a license as a pesti-
 7 cide operator or to furnish evidence of financial responsibility to the department when applying
 8 pesticides to property under the ownership, possession or control of the utility.

9 (c) In addition to any application allowed under paragraph (a) of this subsection, a vector con-
 10 trol district is not required to obtain a license as a pesticide operator or to furnish evidence of fi-
 11 nancial responsibility to the department when applying pesticides for the prevention, control or
 12 eradication of a public health vector as defined in ORS 452.010 to property under the ownership,
 13 possession, control or jurisdiction of another federal, state or local agency, instrumentality, political
 14 subdivision, county, city, town, municipal corporation, irrigation, drainage or other district or other
 15 federal, state or local governmental body or of a homeowners association as defined under ORS
 16 94.550 if the pesticide application is done on a cost recovery, cooperative trade of services or no
 17 cost basis, and not as a source of profit.

18 (13) Subject to subsection (15) of this section, the employees of the agencies, instrumentalities,
 19 subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies or utili-
 20 ties described in subsection (12) of this section who perform or carry out the work, duties or re-
 21 sponsibilities of a pesticide applicator are subject to the provisions of this chapter, except they shall
 22 be issued "public applicator" licenses or, if they carry out the work, duties or responsibilities of a
 23 pesticide trainee, shall be issued "public trainee" certificates, if they otherwise comply or qualify
 24 with the provisions of this chapter relating thereto.

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

26 (a) Issued by the department upon payment of the fee for the pesticide applicator license or
 27 pesticide trainee certificate.

28 (b) Valid and used by the licensee or certificate holder only when applying pesticides as de-
 29 scribed in subsection (12) of this section.

30 (c) Renewed, suspended or revoked each year in the same manner, under the same provisions
 31 and at the same time as other pesticide applicator licenses and trainee certificates are renewed,
 32 suspended or revoked.

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

34 (a) The application of restricted-use pesticides;

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

36 (c) The application of any pesticide at the campus of a school, as defined in ORS 634.700, by an
 37 employee of the school.

38 (16) Prior to applying pesticides to land described in subsection (12)(a)(C) of this section, a
 39 public applicator shall inform the person requesting pesticide application of the possible availability
 40 of alternative sources of assistance, including sources in the private sector that are registered with
 41 the department or with industry trade or professional organizations.

42 (17) A federal, state or local agency, instrumentality, political subdivision, county, city, town,
 43 municipal corporation, irrigation, drainage or other district or other federal, state or local govern-
 44 mental body may not solicit or advertise for pesticide application business in areas outside its ju-
 45 risdiction.

SECTION 6. ORS 634.126 is amended to read:

634.126. (1) In accordance with *[regulations promulgated]* **rules adopted** by the State Department of Agriculture, as provided in ORS 634.306 (1), the department shall issue or renew its pesticide trainee's certificate if the applicant or certificate holder:

- (a) Is at least 18 years of age;
- (b) Is employed by a licensed pesticide operator;
- (c) Is working under the direct supervision and control of a licensed applicator **or, if spraying or otherwise applying pesticides by aircraft, a certified aerial pesticide applicator**; and
- (d) Is in compliance with the applicable provisions of this chapter and *[regulations promulgated thereunder]* **rules adopted under this chapter.**

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

SECTION 7. ORS 634.306 is amended to read:

634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agriculture *[is authorized to promulgate regulations necessary]* **may adopt rules** to carry out the purposes and intent of this chapter, including but not limited to *[the following]* **rules that:**

(1) Establish and maintain a program required for *[a person]* **an individual** to work or engage in the application or spraying of pesticides as a pesticide trainee. In this regard, the department may take into consideration:

- (a) Requirements for submission of applications by pesticide trainees.
- (b) Minimum and maximum periods of work or experience required for pesticide trainees.
- (c) Work performance records or reports to be maintained by pesticide trainees or their employers.
- (d) Acceptance of educational qualifications, applicable work or experience in similar or other fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.
- (e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing trainees to apply pesticides in all or part of the classes of operations or businesses set forth in subsection (2) of this section.

(f) Laws and requirements relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.

(g) Special requirements if the pesticide trainee is to *[apply]* **assist a pesticide applicator or private applicator certified under section 3 of this 2015 Act in the spraying or other application of pesticides** by *[the use of]* aircraft, and the advisability of allowing participation in federal flight training programs to be substituted, all or in part, for training requirements under this chapter.

(2) Establish and maintain classifications of the various pesticides and of the various pest control or pesticide application businesses in order to facilitate the licensing or certification and regulation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard the department may take into consideration:

- (a) Various types, formulations and characteristics of pesticides used and their purposes.
 - (b) Various methods of application of such pesticides.
 - (c) Precautions required for safe and effective application of such pesticides.
- (3) Designate pesticides authorized to be used or applied, or prohibited from use or application, by persons in order to qualify for an exemption under ORS 634.106.
- (4) Establish and maintain classifications of pesticides and devices *[which]* **that** are deemed to

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

3 (a) Laws and regulations of the federal government, including the provisions of the Federal
 4 Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide
 5 Control Act.

6 (b) Laws and regulations of other states.

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

9 (5) Establish and maintain types of pesticide consultant or applicator examinations and reex-
 10 aminations, schedules for required reexaminations and other measures deemed necessary for fair and
 11 reasonable testing of applicants as provided in ORS 634.122 (5).

12 (6) Designate the conditions under which pesticide operators [*spraying*] **that are or that em-**
 13 **ploy pesticide applicators or private applicators certified under section 3 of this 2015 Act to**
 14 **spray or otherwise apply pesticides** by aircraft may reduce, suspend or terminate the liability in-
 15 surance required by ORS 634.116, and the periods of time [*therefor*] **for a reduction, suspension**
 16 **or termination**. In this regard, the department may take into consideration:

17 (a) Changes in climate or seasons.

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

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

20 (d) Possibilities of injury or death to [*persons*] **humans** and loss or damage to real or personal
 21 property.

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

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

29 (9) Prepare and distribute a manual, or other form of publication, containing information helpful
 30 and beneficial to [*persons*] **individuals** engaged in pesticide application or use or to persons pre-
 31 paring to qualify for licensing as a pesticide operator, [*consultants*] **consultant** or applicator and
 32 establish charges therefor.

33 (10) Establish, from time to time, advisory groups or committees to assist the department in
 34 formulation of policies, plans or regulations under this chapter. Each member of any such group or
 35 committee so established shall be entitled to compensation and expenses as provided in ORS 292.495,
 36 [*which shall*] **to** be charged to the department.

37 (11) Establish registration fees for pesticide brands and formulae or formulations [*thereunder*]
 38 **under those pesticide brands**.

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

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

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

1 (a) Laws and regulations of the federal government, including the provisions of the Federal En-
 2 vironmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and
 3 Rodenticide Act, 7 U.S.C. 135 et seq., as amended thereby, and regulations thereunder.

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

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

9 (15) Establish requirements for the reporting of pesticide sales, distribution or use by any per-
 10 son.

11 **SECTION 8.** ORS 634.306, as amended by section 17, chapter 1059, Oregon Laws 1999, is
 12 amended to read:

13 634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agri-
 14 culture [*is authorized to promulgate regulations necessary*] **may adopt rules** to carry out the pur-
 15 poses and intent of this chapter, including but not limited to [*the following*] **rules that:**

16 (1) Establish and maintain a program required for [*a person*] **an individual** to work or engage
 17 in the application or spraying of pesticides as a pesticide trainee. In this regard, the department
 18 may take into consideration:

19 (a) Requirements for submission of applications by pesticide trainees.

20 (b) Minimum and maximum periods of work or experience required for pesticide trainees.

21 (c) Work performance records or reports to be maintained by pesticide trainees or their em-
 22 ployers.

23 (d) Acceptance of educational qualifications, applicable work or experience in similar or other
 24 fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.

25 (e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing
 26 trainees to apply pesticides in all or part of the classes of operations or businesses set forth in
 27 subsection (2) of this section.

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

30 (g) Special requirements if the pesticide trainee is to [*apply*] **assist a pesticide applicator or**
 31 **private applicator certified under section 3 of this 2015 Act in the spraying or other applica-**
 32 **tion of** pesticides by [*the use of*] aircraft, and the advisability of allowing participation in federal
 33 flight training programs to be substituted, all or in part, for training requirements under this chap-
 34 ter.

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

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

40 (b) Various methods of application of such pesticides.

41 (c) Precautions required for safe and effective application of such pesticides.

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

44 (4) Establish and maintain classifications of pesticides and devices [*which*] **that** are deemed to
 45 be highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into

1 consideration:

2 (a) Laws and regulations of the federal government, including the provisions of the Federal
3 Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide
4 Control Act.

5 (b) Laws and regulations of other states.

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

8 (5) Establish and maintain types of pesticide consultant or applicator examinations and reex-
9 aminations, schedules for required reexaminations and other measures deemed necessary for fair and
10 reasonable testing of applicants as provided in ORS 634.122 (5).

11 (6) Designate the conditions under which pesticide operators [*spraying*] **that are or that em-**
12 **ploy pesticide applicators or private applicators certified under section 3 of this 2015 Act to**
13 **spray or otherwise apply pesticides** by aircraft may reduce, suspend or terminate the liability in-
14 surance required by ORS 634.116, and the periods of time [*therefor*] **for a reduction, suspension**
15 **or termination**. In this regard, the department may take into consideration:

16 (a) Changes in climate or seasons.

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

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

19 (d) Possibilities of injury or death to [*persons*] **humans** and loss or damage to real or personal
20 property.

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

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

28 (9) Prepare and distribute a manual, or other form of publication, containing information helpful
29 and beneficial to [*persons*] **individuals** engaged in pesticide application or use or to persons pre-
30 paring to qualify for licensing as a pesticide operator, [*consultants*] **consultant** or applicator and
31 establish charges therefor.

32 (10) Establish, from time to time, advisory groups or committees to assist the department in
33 formulation of policies, plans or regulations under this chapter. Each member of any such group or
34 committee so established shall be entitled to compensation and expenses as provided in ORS 292.495,
35 [*which shall*] **to** be charged to the department.

36 (11) Establish registration fees for pesticide brands and formulae or formulations [*thereunder*]
37 **under those pesticide brands**.

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

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

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

45 (a) Laws and regulations of the federal government, including the provisions of the Federal En-

1 vironmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and
 2 Rodenticide Act, 7 U.S.C. 135 et seq., as amended thereby, and regulations thereunder.

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

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

8 **SECTION 9. (1) Notwithstanding section 3 of this 2015 Act, if an individual licensed as a**
 9 **pesticide applicator or public applicator, or certified as a private applicator, files an applica-**
 10 **tion on or before 90 days after the operative date of section 3 of this 2015 Act for certification**
 11 **under section 3 of this 2015 Act, the State Department of Agriculture may allow the indi-**
 12 **vidual to spray or otherwise apply pesticides by aircraft until the department refuses or**
 13 **grants the certification.**

14 (2) Notwithstanding the amendments to ORS 634.126 by section 6 of this 2015 Act, a pes-
 15 ticide trainee may receive supervision in the spraying or other application of pesticides by
 16 aircraft from an individual described in subsection (1) of this section.

17 (3) Notwithstanding the amendments to ORS 634.116 and 634.306 by sections 5, 7 and 8
 18 of this 2015 Act, the State Department of Agriculture may continue in effect any department
 19 rule allowing pesticide operators that spray by aircraft to reduce, suspend or terminate the
 20 liability insurance applicable to spraying by aircraft during certain periods of the year.

21
 22 **CIVIL PENALTIES**
 23

24 **SECTION 10. The State Department of Agriculture may suspend, revoke or refuse to**
 25 **renew a license, certificate or other authorization issued to a person under this chapter if**
 26 **the person fails to pay a civil penalty under ORS 634.900 on or before 90 days after the date**
 27 **that the civil penalty is imposed on the person.**

28 **SECTION 11.** ORS 634.900 is amended to read:

29 634.900. (1) In addition to any other liability or penalty provided by law, the Director of Agri-
 30 culture may impose a civil penalty on a person for violation of any of the provisions of this chapter
 31 relating to pesticide application, sale or labeling. The civil penalty for a first violation shall be not
 32 more than [~~\$1,000~~] **\$2,000**. For a subsequent violation, the director may impose a civil penalty of not
 33 more than [~~\$2,000~~] **\$4,000**.

34 (2) Notwithstanding subsection (1) of this section, if the violation of a provision relating to
 35 pesticide application, sale or labeling results from gross negligence or willful misconduct, the civil
 36 penalty for a first or subsequent violation may not exceed \$10,000.

37 (3) A civil penalty may not be imposed under this section for violations other than those in-
 38 volving pesticide application, sale or labeling violation under this chapter.

39
 40 **DEFINITION CHANGES**
 41

42 **SECTION 12.** ORS 634.006 is amended to read:

43 634.006. As used in this chapter unless the context requires otherwise:

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

1 (2) “Brand” or “trademark” means any word, name, symbol or any combination thereof adopted
 2 or used by a person to identify pesticides manufactured, compounded, delivered, distributed, sold or
 3 offered for sale in this state and to distinguish them from pesticides manufactured, compounded,
 4 delivered, distributed, sold or offered for sale by others.

5 (3) “Department” means the State Department of Agriculture.

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

11 [(5) “Private applicator” means a person who uses or supervises the use of any pesticide, classified
 12 by the department as a restricted-use or highly toxic pesticide, for the purpose of producing agricultural
 13 commodities or forest crops on land owned or leased by the person.]

14 [(6)] (5) “Highly toxic” means a pesticide or device determined by the department to be capable
 15 of causing severe injury, disease or death to human beings.

16 [(7)] (6) “Landowner” means a person:

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

18 (b) In the case of multiple ownership of land[, *the owner is only a person*]:

19 (A) Whose interest is greater than an undivided one-half interest [*therein*] **in the land**; or

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

22 (7) “Person” means:

23 (a) **A person as defined in ORS 174.100;**

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

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

26 (8) “Pesticide” includes:

27 (a) “Defoliant” which means any substance or mixture of substances intended for causing the
 28 leaves or foliage to drop from a plant with or without causing abscission;

29 (b) “Desiccant” which means any substance or mixture of substances intended for artificially
 30 accelerating the drying of plant tissue;

31 (c) “Fungicide” which means any substance or mixture of substances intended for preventing,
 32 destroying, repelling or mitigating any fungus;

33 (d) “Herbicide” which means any substance or mixture of substances intended for preventing,
 34 destroying, repelling or mitigating any weed;

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

38 (f) “Nematocide” which means any substance or mixture of substances intended for preventing,
 39 destroying, repelling or mitigating nematodes;

40 (g) “Plant regulator” which means any substance or mixture of substances intended, through
 41 physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise
 42 alter the behavior of ornamental or crop plants or the produce thereof, but [*shall*] **does** not include
 43 substances to the extent that they are intended as plant nutrients, trace elements, nutritional
 44 chemicals, plant inoculants or soil amendments; or

45 (h) Any substance, or mixture of substances intended to be used for defoliating plants or for

1 preventing, destroying, repelling or mitigating all insects, plant fungi, weeds, rodents, predatory
 2 animals or any other form of plant or animal life which is, or which the department [*may declare*]
 3 **declares** to be a pest, which may infest or be detrimental to vegetation, humans, animals, or be
 4 present in any environment thereof.

5 (9) “Pesticide applicator” or “applicator” means [*a person*] **an individual** who:

6 (a) Is spraying or applying pesticides for others;

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

8 (c) Is in direct charge of or supervises the spraying or **other** application of pesticides or oper-
 9 ates, uses, drives or physically directs propulsion of equipment, apparatus or machinery **during the**
 10 **spraying or other application of pesticides**, either on the ground or, **if certified under section**
 11 **3 of this 2015 Act**, by aircraft [*in such activity*].

12 (10) “Pesticide consultant” means a person[, *including governmental employees,*] who offers or
 13 supplies technical advice, supervision, aid or recommendations to the user of pesticides classified
 14 by the department as restricted-use or highly toxic pesticides, whether licensed as a pesticide dealer
 15 or not.

16 (11) “Pesticide dealer” means a person who sells, offers for sale, handles, displays or distributes
 17 any pesticide classified by the department as a restricted-use or highly toxic pesticide.

18 (12) “Pesticide equipment” means any equipment, machinery or device used in the actual appli-
 19 cation of pesticides, including aircraft and ground spraying equipment.

20 (13) “Pesticide operator” means a person who owns or operates a business engaged in the ap-
 21 plication of pesticides upon the land or property of another.

22 (14) “Pesticide trainee” means [*a person*] **an individual** who:

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

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

26 (15) **“Private applicator” means an individual who uses or supervises the use of any pes-**
 27 **ticide, classified by the department as a restricted-use or highly toxic pesticide, for the pur-**
 28 **pose of producing agricultural commodities or forest crops on land owned or leased by the**
 29 **individual or the employer of the individual.**

30 [(15)] (16) “Professed standard of quality” means a plain and true statement of the name and
 31 percentage of each active ingredient and the total percentage of all inert ingredients contained in
 32 any pesticide.

33 [(16)] (17) “Protected area” means an area established under the provisions of this chapter to
 34 prohibit or restrict the application of pesticides.

35 [(17)] (18) “Public applicator” means [*a person*] **an individual** who is an employee of the State
 36 of Oregon or its agencies, counties, cities, municipal corporations, other governmental bodies or
 37 subdivisions thereof, irrigation districts, drainage districts and public utilities and telecommuni-
 38 cations utilities and who performs or carries out the work, duties or responsibilities of a pesticide
 39 applicator.

40 [(18)] (19) “Public trainee” means [*a person*] **an individual** who is an employee of the State of
 41 Oregon or its agencies, counties, cities, municipal corporations, other governmental bodies or sub-
 42 divisions thereof, irrigation districts, drainage districts and public utilities and telecommunications
 43 utility and who performs or carries out the work, duties or responsibilities of a pesticide trainee.

44 [(19)] (20) “Registrant” means a person registering any pesticide pursuant to this chapter.

45 [(20)] (21) “Restricted area” means an area established under the provisions of this chapter to

1 restrict, but not prohibit, the application of pesticides.

2 [(21)] (22) “Restricted-use pesticide” means any pesticide or device [which] **that** the department
 3 has found and determined to be so injurious or detrimental to [persons] **humans**, pollinating insects,
 4 bees, animals, crops, wildlife, land or environment, other than the pests it is intended to prevent,
 5 destroy, control or mitigate, that additional restrictions are required.

6 [(22)] (23) “Weed” means any plant [which] **that** grows where not wanted.

7 **SECTION 13.** ORS 634.172 is amended to read:

8 634.172. (1) No action against a landowner, person for whom the pesticide was applied or pesti-
 9 cide operator arising out of the use or application of any pesticide shall be commenced unless,
 10 within 60 days from the occurrence of the loss, within 60 days from the date the loss is discovered,
 11 or, if the loss is alleged to have occurred out of damage to growing crops, before the time when 50
 12 percent of the crop is harvested, the person commencing the action:

13 (a) Files a report of the alleged loss with the State Department of Agriculture;

14 (b) Mails or personally delivers to the landowner or pesticide operator who is allegedly re-
 15 sponsible for the loss a true copy of the report provided for under paragraph (a) of this subsection;
 16 and

17 (c) Mails or personally delivers to the person for whom the pesticide was applied a true copy
 18 of the report required under paragraph (a) of this subsection if that person is not the person com-
 19 mencing the action.

20 (2) Any person who claims to have sustained any loss arising out of the use or application of
 21 any pesticide by any state agency, county or municipality may file a report of loss with the de-
 22 partment, and mail or personally deliver a true copy of such report of loss to the state agency,
 23 county or municipality allegedly responsible, within the time provided in subsection (1) of this sec-
 24 tion.

25 (3) Upon receiving a report of loss as provided by this section:

26 (a) The department may investigate, examine and determine the extent and nature of the damage
 27 alleged to have been caused to property or crops. The department shall not determine the source
 28 of the damage, the person who may have caused the damage or the financial extent of the loss or
 29 damage. The department shall prepare and file in its office a report of the investigation, examination
 30 and determination. Copies of the report made by the department may be given upon request to per-
 31 sons who are financially interested in the matter.

32 (b) The department at the request of, and without cost to, any persons financially interested in
 33 the matter may undertake to mediate an equitable settlement of the controversy.

34 (4) Upon receiving a request [therefor] from any person, other than a person who may file a re-
 35 port of loss as provided by subsection (1) or (2) of this section, the department may investigate, ex-
 36 amine and determine the extent and nature of damage alleged to have been caused to property or
 37 crops arising out of the use or application of any pesticide by any other person[or any state agency,
 38 county or municipality], provided that the person making such request reimburses the department for
 39 its work. The department shall not determine the source of the damage, the person who may have
 40 caused the damage or the financial extent of the loss or damage. The department shall prepare and
 41 file in its office a report of the investigation, examination and determination. Copies of the report
 42 made by the department may be given upon request to persons who are financially interested in the
 43 matter.

44 (5) Nothing in this section shall be construed as a waiver by the State of Oregon or any state
 45 agency, county or municipality of any immunity against suit [which] **that** otherwise may exist.

1 (6) Notwithstanding ORS 634.006 [(7)], as used in this section, "landowner" includes any
2 person[, *firm, corporation, the state, any county within the state, or municipality,*] shown by records
3 of the county to be the owner of land or having such land under contract for purchase.

4
5 **PESTICIDE ANALYTICAL AND RESPONSE CENTER**

6
7 **SECTION 14.** ORS 634.550 is amended to read:

8 634.550. (1) There is created a Pesticide Analytical and Response Center with a governing board
9 consisting of the following members:

10 (a) The Director of Agriculture or designee.

11 (b) The State Forester or designee.

12 (c) The State Fish and Wildlife Director or designee.

13 (d) The Director of the Department of Environmental Quality or designee.

14 (e) The Director of the Oregon Health Authority or designee.

15 (f) The Administrator of the Occupational Safety and Health Division or designee.

16 (g) The State Fire Marshal or designee.

17 (h) The Director of the Poison Control and Drug Information Program of the Oregon Health and
18 Science University or designee.

19 (i) One citizen from the state at large appointed jointly by the Director of Agriculture and the
20 Director of the Oregon Health Authority.

21 (2) The Director of Agriculture shall appoint an administrator for the Pesticide Analytical and
22 Response Center, who shall be responsible to the board for performance of the duties of the center
23 and the board.

24 (3) The Director of Agriculture or designee and the Director of the Oregon Health Authority
25 or designee shall alternate as chairperson of the board for terms of one year each. When one is
26 serving as chairperson, the other shall serve as vice chairperson.

27 (4) The board shall seek expert consultation from the extension service toxicology program, the
28 Oregon Institute of Occupational Health Sciences and such other sources as may be needed.

29 (5) The functions of the board are to:

30 (a) Direct the activities and priorities of the administrator of the center.

31 (b) Centralize receiving of information relating to actual or alleged health and environmental
32 incidents involving pesticides.

33 (c) Mobilize expertise necessary for timely and accurate investigation of pesticide incidents and
34 analyses of associated samples.

35 (d) Identify trends and patterns of problems related to pesticide use.

36 (e) Make recommendations for action to a state agency when a majority of the board considers
37 that such action may be warranted on the basis of the findings of an incident investigation or on
38 the basis of identification of a trend or pattern of problems. Recommended actions may include, but
39 not be limited to, regulatory action, modification of administrative rules, proposal of new legislation,
40 public education and consultation to industry.

41 **(f) Develop standard operating procedures for implementation by the public entities re-**
42 **presented on the board to coordinate the receipt of, and response to, pesticide-related com-**
43 **plaints indicating possible health or environmental effects.**

44 **(g) Report biennially to the Legislative Assembly, or to an interim committee dealing**
45 **with natural resource issues, regarding activities during the reporting period by the board**

1 **and by public entities represented on the board regarding the development, implementation,**
2 **amendment or operation of standard operating procedures described in paragraph (f) of this**
3 **subsection.**

4 [(f)] (h) Report in a standardized format the results of the investigations of pesticide incidents.

5 [(g)] (i) Establish by consensus, procedures for carrying out its responsibilities within the limits
6 of available resources.

7 [(h)] (j) Prepare and submit to each odd-numbered year regular session of the Legislative As-
8 sembly a report of the activities of the center that includes a record of recommendations made by
9 the board and the actions resulting from the board's work.

10 (6) Upon receipt of a recommendation from the board, a state agency shall respond in a timely
11 manner to inform the board of actions taken or the reasons for taking no action on the recommen-
12 dation.

13 (7) Any medical information received by a member of the board or by a staff member of the
14 center in the course of carrying out the duties of the center or the board shall be held confidential
15 as provided in ORS 192.553 to 192.581 and 433.008.

16 (8) The functions of the board do not supersede the regulatory authority of any agency and are
17 not in lieu of the regulatory authority of any agency.

18
19 **PESTICIDE INCIDENT REPORTING**

20
21 **SECTION 15. (1) The State Department of Agriculture, in consultation with the Pesticide**
22 **Analytical and Response Center, shall establish a pesticide incident telephone line for re-**
23 **ceiving, and facilitating the coordination of public entities' responses to, pesticide-related**
24 **complaints by the public indicating possible health or environmental effects.**

25 **(2) The center shall develop and maintain standard operating procedures for use with the**
26 **telephone line. The department, in consultation with the center and other affected public**
27 **entities, shall periodically update the telephone line operating procedures to comply with any**
28 **new standard operating procedures developed by the center.**

29 **SECTION 16. The State Department of Agriculture shall report biennially to the Legis-**
30 **lative Assembly regarding the operation of the pesticide incident telephone line required un-**
31 **der section 15 of this 2015 Act. The report may include, but need not be limited to, any**
32 **recommendations of the department or the Pesticide Analytical and Response Center for**
33 **legislation regarding the telephone line.**

34
35 **PESTICIDE INFORMATION**

36
37 **SECTION 17. The State Department of Agriculture shall post information regarding**
38 **pesticides on a department website that is available for access by the public without charge.**
39 **The department shall indicate on the website those pesticides and devices that the depart-**
40 **ment has listed under ORS 634.316 as highly toxic or restricted-use pesticides or devices.**

41
42 **PESTICIDE REGISTRATION FEES**

43
44 **SECTION 18. ORS 634.016 is amended to read:**

45 **634.016. (1) Every pesticide, including each formula or formulation, manufactured, compounded,**

1 delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year
2 with the State Department of Agriculture.

3 (2) Every device manufactured, delivered, distributed, sold, offered or exposed for sale in this
4 state shall be registered each year with the department.

5 (3) The registration shall be made by the manufacturer or a distributor of the pesticide.

6 (4) The application for registration shall include:

7 (a) The name and address of the registrant.

8 (b) The name and address of the manufacturer if different than the registrant.

9 (c) The brand name or trademark of the pesticide.

10 (d) A specimen or facsimile of the label of each pesticide, and each formula or formulation, for
11 which registration is sought, except for annual renewals of the registration when the label remains
12 unchanged.

13 (e) The correct name and total percentage of each active ingredient.

14 (f) The total percentage of inert ingredients.

15 (5) The application for registration shall be accompanied by a registration fee to be established
16 by the department for each pesticide and each formula or formulation. The registration fee may not
17 exceed [~~\$250~~] **\$400** for each such pesticide, or each formula or formulation.

18 (6) The department, at the time of application for registration of any pesticide or after a decla-
19 ration of a ground water management area under ORS 468B.180 may:

20 (a) Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide in this
21 state.

22 (b) Refuse to register any pesticide [*which*] **that** is highly toxic for which there is no effective
23 antidote under the conditions of use for which such pesticide is intended or recommended.

24 (c) Refuse to register any pesticide for use on a crop for which no finite tolerances for residues
25 of such pesticide have been established by either the department or the federal government.

26 (d) In restricting the purposes for which pesticides may be manufactured, delivered, distributed,
27 sold or used, or in refusing to register any pesticide, give consideration to:

28 (A) The damage to health or life of humans or animals, or detriment to the environment,
29 [*which*] **that** might result from the distribution and use of such pesticide.

30 (B) Authoritative findings and recommendations of agencies of the federal government and of
31 any advisory committee or group established under ORS 634.306 (10).

32 (C) The existence of an effective antidote under known conditions of use for which the material
33 is intended or recommended.

34 (D) Residual or delayed toxicity of the material.

35 (E) The extent to which a pesticide or its carrying agent simulates by appearance and may be
36 mistaken for human food or animal feed.

37 (7) The provisions of this section shall not, except as provided herein, apply to:

38 (a) The use and purchase of pesticides by the federal government or its agencies.

39 (b) The sale or exchange of pesticides between manufacturers and distributors.

40 (c) Drugs, chemicals or other preparations sold or intended for medicinal or toilet purposes or
41 for use in the arts or sciences.

42 (d) Common carriers, contract carriers or public warehousemen delivering or storing pesticides,
43 except as provided in ORS 634.322.

44
45

RETESTING OF VIOLATORS

