

House Bill 2192

Sponsored by Representative WILDE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Interagency Science Review Panel on Pesticides within Oregon Health Authority. Requires panel to review registration application for pesticides and devices containing pesticides not already holding valid registration with State Department of Agriculture. Requires panel to conduct review for certain other pesticides and devices. Requires panel to make determination regarding safety of pesticide or device. Requires that department classify pesticide or device consistently with panel determination.

A BILL FOR AN ACT

1
2 Relating to pesticides; creating new provisions; and amending ORS 634.006, 634.016, 634.022, 634.042,
3 634.306, 634.312, 634.316, 634.372 and 634.600.

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

5 **SECTION 1. (1) The Interagency Science Review Panel on Pesticides is established within**
6 **the Oregon Health Authority.**

7 **(2) The panel consists of five members appointed by the Governor.**

8 **(3) The members of the panel must be residents of this state who are well informed on**
9 **the principles of toxicology, entomology, water quality, fish sciences and public health.**

10 **(4) The term of office of each member of the panel is four years, but a member serves**
11 **at the pleasure of the Governor. Before the expiration of the term of a member, the Gover-**
12 **nor shall appoint a successor whose term begins on January 1 next following. A member is**
13 **eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an**
14 **appointment to become immediately effective for the unexpired term.**

15 **(5) The appointment of each member of the panel is subject to confirmation by the Sen-**
16 **ate in the manner prescribed in ORS 171.562 and 171.565.**

17 **(6) Members of the panel are entitled to compensation and expenses as provided in ORS**
18 **292.495.**

19 **SECTION 2. Notwithstanding the term of office specified by section 1 of this 2021 Act,**
20 **of the members first appointed to the Interagency Science Review Panel on Pesticides:**

21 **(1) Two shall serve for terms ending January 1, 2026.**

22 **(2) One shall serve for a term ending January 1, 2025.**

23 **(3) One shall serve for a term ending January 1, 2024.**

24 **(4) One shall serve for a term ending January 1, 2023.**

25 **SECTION 3. (1) As used in this section:**

26 **(a) "Device," "pesticide" and "registrant" have the meanings given those terms in ORS**
27 **634.006.**

28 **(b) "Initial registration" means the registration of a pesticide or device that does not**
29 **have a valid registration under ORS 634.016 on the date that the registration application is**

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 received by the State Department of Agriculture.

2 (2) The Interagency Science Review Panel on Pesticides shall conduct a review of:

3 (a) Each pesticide, including each formula or formulation, submitted to the department
4 for an initial registration under ORS 634.016;

5 (b) Each device submitted to the department for an initial registration under ORS
6 634.016;

7 (c) At the request of any member of the panel, any pesticide or device registered under
8 ORS chapter 634;

9 (d) At the request of the Pesticide Analytical and Response Center, any pesticide or de-
10 vice registered under ORS chapter 634; and

11 (e) Upon receipt of a petition meeting requirements established by the panel, any pesti-
12 cide or device registered under ORS chapter 634 that has not previously been reviewed by the
13 panel.

14 (3) The panel shall review the information that was submitted with the registration ap-
15 plication for a pesticide or device undergoing review and any available science-based infor-
16 mation from other sources. The panel may require an applicant or registrant to submit
17 additional information the panel deems necessary or convenient to review the pesticide or
18 device. The panel may require third-party testing of a pesticide or device using testing
19 methods generally accepted within the scientific community. Based on a comprehensive re-
20 view of the available information concerning a pesticide or device, the panel shall determine
21 whether under ordinary circumstances the pesticide or device is:

22 (a) Safe for general use by the public;

23 (b) Capable of causing severe injury, disease or death to human beings; or

24 (c) So injurious or detrimental to humans, pollinating insects, bees, animals, crops,
25 wildlife, land or environment, other than the pests it is intended to prevent, destroy, control
26 or mitigate, that special restrictions are required.

27 (4) The panel shall report its determination under subsection (3) of this section to the
28 department. The determination may include any additional findings by the panel relevant to
29 the health effects or safety of the pesticide or device.

30 **SECTION 4.** Section 5 of this 2021 Act is added to and made a part of ORS chapter 634.

31 **SECTION 5.** If the Interagency Science Review Panel on Pesticides informs the State
32 Department of Agriculture that the panel has determined under section 3 of this 2021 Act
33 that a pesticide or device reviewed by the panel is other than safe for general use by the
34 public under ordinary circumstances, the department shall:

35 (1) Limit the sale of the pesticide or device to licensed pesticide applicators, licensed
36 public applicators, certified private applicators, pesticide trainees, public trainees or other
37 holders of appropriate licenses and certificates determined by the department after consul-
38 tation with the panel;

39 (2) Restrict the purposes for which a licensed pesticide applicator or other holder of an
40 appropriate license or certificate may use the pesticide or device;

41 (3) Restrict the parameters and conditions for a licensed pesticide applicator or other
42 holder of an appropriate license or certificate to use the pesticide or device; or

43 (4)(a) Deny or revoke registration of the pesticide; and

44 (b) Take any additional action the department deems appropriate to prohibit the sale or
45 use of the pesticide or device in this state.

1 **SECTION 6.** ORS 634.006 is amended to read:

2 634.006. As used in this chapter unless the context requires otherwise:

3 (1) “Antidote” means a practical immediate treatment in case of poisoning and includes first-aid
4 treatment.

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

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

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

15 (5) “Highly toxic” means a pesticide or device determined by the department **or the Intera-**
16 **gency Science Review Panel on Pesticides** to be capable of causing severe injury, disease or death
17 to human beings.

18 (6) “Landowner” means a person:

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

20 (b) In the case of multiple ownership of land:

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

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

24 (7) “Person” means:

25 (a) A person as defined in ORS 174.100;

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

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

28 (8) “Pesticide” includes:

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

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

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

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

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

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

42 (g) “Plant regulator” which means any substance or mixture of substances intended, through
43 physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise
44 alter the behavior of ornamental or crop plants or the produce thereof, but does not include sub-
45 stances to the extent that they are intended as plant nutrients, trace elements, nutritional chemi-

1 cal, plant inoculants or soil amendments; or

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

7 (9) "Pesticide applicator" or "applicator" means an individual who:

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

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

10 (c) Is in direct charge of or supervises the spraying or other application of pesticides or oper-
 11 ates, uses, drives or physically directs propulsion of equipment, apparatus or machinery during the
 12 spraying or other application of pesticides, either on the ground or, if certified under ORS 634.128,
 13 by aircraft.

14 (10) "Pesticide consultant" means a person who offers or supplies technical advice, supervision,
 15 aid or recommendations to the user of pesticides classified by the department as restricted-use or
 16 highly toxic pesticides, whether licensed as a pesticide dealer or not.

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

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

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

23 (14) "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 certificate to qualify as a pes-
 26 ticide applicator.

27 (15) "Private applicator" means an individual who uses or supervises the use of any pesticide,
 28 classified by the department as a restricted-use or highly toxic pesticide, for the purpose of
 29 producing agricultural commodities or forest crops on land owned or leased by the individual or the
 30 employer of the individual.

31 (16) "Professed standard of quality" means a plain and true statement of the name and per-
 32 centage of each active ingredient and the total percentage of all inert ingredients contained in any
 33 pesticide.

34 (17) "Protected area" means an area established under the provisions of this chapter to prohibit
 35 or restrict the application of pesticides.

36 (18) "Public applicator" means an individual who is an employee of the State of Oregon or its
 37 agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions thereof,
 38 irrigation districts, drainage districts and public utilities and telecommunications utilities and who
 39 performs or carries out the work, duties or responsibilities of a pesticide applicator.

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

44 (20) "Registrant" means a person registering any pesticide [pursuant to] **under** this chapter.

45 (21) "Restricted area" means an area established under the provisions of this chapter to restrict,

1 but not prohibit, the application of pesticides.

2 (22) "Restricted-use pesticide" means any pesticide or device that the department **or the**
 3 **Interagency Science Review Panel on Pesticides** has [*found and*] determined to be so injurious
 4 or detrimental to humans, pollinating insects, bees, animals, crops, wildlife, land or environment,
 5 other than the pests it is intended to prevent, destroy, control or mitigate, that [*additional*] **special**
 6 restrictions are required.

7 (23) "Weed" means any plant that grows where not wanted.

8 **SECTION 7.** ORS 634.016 is amended to read:

9 634.016. (1) Every pesticide, including each formula or formulation, manufactured, compounded,
 10 delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year
 11 with the State Department of Agriculture.

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

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

15 (4) The application for registration shall include:

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

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

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

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

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

23 (f) The total percentage of inert ingredients.

24 (5) The application for registration shall be accompanied by a registration fee to be established
 25 by the department for each pesticide and each formula or formulation. The registration fee may not
 26 exceed \$400 for each such pesticide, or each formula or formulation.

27 **(6) If a pesticide or device was not registered with the department in the preceding year,**
 28 **the department shall forward a copy of the registration application to the Oregon Health**
 29 **Authority for a determination by the Interagency Science Review Panel on Pesticides prior**
 30 **to taking action on the registration application.**

31 [(6)] (7) The department, at the time of application for registration of any pesticide **or device**
 32 or after a declaration of a ground water management area under ORS 468B.180 may:

33 (a) Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide **or de-**
 34 **vice** in this state.

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

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

39 (d) In restricting the purposes for which pesticides **or devices** may be manufactured, delivered,
 40 distributed, sold or used, or in refusing to register any pesticide **or device, in addition to consid-**
 41 **ering any information contained in a panel determination under section 3 of this 2021 Act,**
 42 give consideration to:

43 (A) The damage to health or life of humans or animals, or detriment to the environment, that
 44 might result from the distribution and use of such pesticide **or device.**

45 (B) Authoritative findings and recommendations of agencies of the federal government and of

1 any advisory committee or group established under ORS 634.306 (10).

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

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

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

7 [(7)] **(8)** *[The provisions of this section shall not, except as provided herein,]* **This section does**
8 **not** apply to:

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

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

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

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

15 **SECTION 8.** ORS 634.022 is amended to read:

16 634.022. (1) The provisions of ORS 634.016 **and section 3 of this 2021 Act** are not applicable
17 to pesticides used only for experimental or research purposes. Such pesticides shall be conspicuously
18 labeled "For experimental purposes only and not for sale" in addition to the labeling requirements
19 of ORS 634.026, except that they need not be labeled with directions for use or the professed
20 standard of quality.

21 (2)(a) Subject to the exemptions set forth in paragraph (b) of this subsection, before any pesticide
22 can be used for experimental or research purposes a person proposing to use such pesticides shall
23 obtain approval of the State Department of Agriculture. Application for such approval shall contain
24 such information as may be required by the department, including the location and size of the plot
25 on which the experiment or research is to be carried out, the nature of the pesticide to be utilized,
26 the person responsible for such activities and the intended disposition of any crops grown upon the
27 experimental or research plot.

28 (b) The provisions of paragraph (a) of this subsection are not applicable to:

29 (A) Federal or state agencies.

30 (B) Experiments or research carried on in greenhouses.

31 (3) If any person uses pesticides for experimental purposes as provided by this section contrary
32 to the instructions and approval issued by the department, the department may immediately revoke
33 such approval and refuse to issue its approval to such persons on future applications.

34 **SECTION 9.** ORS 634.042 is amended to read:

35 634.042. (1) Any poisonous or deleterious pesticide or any pesticide *[which, in the opinion of the*
36 *State Department of Agriculture, is not generally recognized among experts qualified by scientific*
37 *training and experience to evaluate the safety of pesticide chemicals as safe for use,]* **that is not de-**
38 **termined by the State Department of Agriculture or, if reviewed under section 3 of this 2021**
39 **Act, determined by the Interagency Science Review Panel on Pesticides to be safe for general**
40 **use by the public and that is** added to a raw agricultural commodity[,] shall be deemed unsafe for
41 the purposes of the application of ORS 616.235 (1)(b), unless:

42 (a) A tolerance for *[such]* **the** pesticide chemical in or on the raw agricultural commodity has
43 been prescribed *[by regulation promulgated by the department]* **in department rules that are based**
44 **on recommendations by the panel** and the quantity of *[such]* **that** pesticide chemical in or on the
45 raw agricultural commodity is within the limits of the tolerance so prescribed; or

1 (b) With respect to use in or on *[such]* **the** raw agricultural commodity, the pesticide chemical
 2 has been exempted from **department** regulation *[promulgated by the department]*.

3 *[(2) While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect*
 4 *to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing*
 5 *or containing any added amount of such pesticide chemical, be considered to be adulterated within the*
 6 *meaning of ORS 616.235 (1)(a), provided such pesticide chemical or the use of such pesticide chemical*
 7 *is in compliance with the law and regulations promulgated thereunder.]*

8 **(2) The presence of a pesticide chemical in a raw agricultural commodity does not cause**
 9 **the commodity to be considered adulterated under ORS 616.235 if the pesticide chemical is:**

10 **(a) Present in the commodity at a level that is below a tolerance described under sub-**
 11 **section (1)(a) of this section; or**

12 **(b) Exempt from department regulation with regard to use on the commodity.**

13 (3) In a fertilizer, agricultural minerals, agricultural amendment or lime mix in which a pesticide
 14 is contained, all applicable provisions of this chapter must be complied with. In lieu of the require-
 15 ments of ORS 634.026 (1)(c), the label or invoice on a certain mix may show the name and amount
 16 of the actual pesticide, together with the total amount of the entire mixture, including the amount
 17 of actual pesticide, to be applied to each acre.

18 **SECTION 10.** ORS 634.306 is amended to read:

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

22 (1) Establish and maintain a program required for an individual to work or engage in the ap-
 23 plication or spraying of pesticides as a pesticide trainee. In this regard, the department may take
 24 into consideration:

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

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

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

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

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

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

36 (g) Special requirements if the pesticide trainee is to assist a pesticide applicator in the spraying
 37 or other application of pesticides by aircraft, and the advisability of allowing participation in federal
 38 flight training programs to be substituted, all or in part, for training requirements under this chap-
 39 ter.

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

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

45 (b) Various methods of application of the pesticides.

1 (c) Precautions required for safe and effective application of the pesticides.

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

4 (4) Establish and maintain classifications of pesticides and devices that are [*deemed to be*] highly
 5 toxic or restricted-use pesticides or devices. [*In this regard, the department shall take into consider-*
 6 *ation:*] **Except as provided in this subsection, the department may not change the classifica-**
 7 **tion of a restricted-use or highly toxic pesticide or a device unless the change in**
 8 **classification is consistent with a determination made by the Interagency Science Review**
 9 **Panel on Pesticides under section 3 of this 2021 Act. This subsection does not condition or**
 10 **otherwise affect any authority granted to the department under this chapter to issue a “stop**
 11 **sale, use or removal” order or otherwise temporarily or permanently prohibit the sale, dis-**
 12 **tribution or use of a pesticide or device.**

13 [*(a) Laws and regulations of the federal government, including the provisions of the Federal*
 14 *Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq., as amended, and the Federal Envi-*
 15 *ronmental Pesticide Control Act of 1972, 86 Stat. 973.]*

16 [*(b) Laws and regulations of other states.]*

17 [*(c) Advice and counsel of experts in pesticides from industry, universities and colleges and other*
 18 *governmental agencies or bodies.]*

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

22 (6) Designate the conditions under which pesticide operators that are or that employ pesticide
 23 applicators to spray or otherwise apply pesticides by aircraft may reduce, suspend or terminate the
 24 liability insurance required by ORS 634.116, and the periods of time for a reduction, suspension or
 25 termination. In this regard, the department may take into consideration:

26 (a) Changes in climate or seasons.

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

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

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

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

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

37 (9) Prepare and distribute a manual, or other form of publication, containing information helpful
 38 and beneficial to individuals engaged in pesticide application or use or to persons preparing to
 39 qualify for licensing as a pesticide operator, consultant or applicator and establish charges therefor.

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

44 (11) Establish registration fees for pesticide brands and formulae or formulations under those
 45 pesticide brands.

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

3 (13) Establish restrictions, methods and procedures in the storage, transportation, use or appli-
 4 cation of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating
 5 insects, bees, animals, crops, wildlife, land or environment. **If a panel determination has been**
 6 **made under section 3 of this 2021 Act regarding a restricted-use or highly toxic pesticide, the**
 7 **department shall make any restrictions, methods and procedures adopted for the pesticide**
 8 **consistent with the panel determination.**

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

11 (a) Laws and regulations of the federal government, including the provisions of the Federal En-
 12 vironmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and
 13 Rodenticide Act, 7 U.S.C. 136 et seq., as amended thereby, and regulations thereunder.

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

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

19 **SECTION 11.** ORS 634.312 is amended to read:

20 634.312. The increasing formulation, distribution, application and use of pesticides and other
 21 synthetic chemicals have created serious problems with storage, disposition and transportation of
 22 pesticides and other synthetic chemicals which cannot or should not be distributed, applied or used.
 23 Such problems include but are not limited to the recall and storage of pesticides and other synthetic
 24 chemicals prohibited from distribution, application or use because of a violation of or noncompliance
 25 with a law or regulation. The [*State Department of Agriculture shall*] **Interagency Science Review**
 26 **Panel on Pesticides periodically shall, and at the discretion of the panel may,** review scientific
 27 information relating to such problems and [*develop*] **advise the State Department of Agriculture**
 28 **regarding the development of** immediate and long-range programs or plans for solutions to such
 29 problems[, *and for these purposes seek the advice of governmental agencies or bodies*].

30 **SECTION 12.** ORS 634.316 is amended to read:

31 634.316. The State Department of Agriculture may establish, maintain and amend lists of pesti-
 32 cides and devices [*which*] **that** are highly toxic or restricted-use pesticides or devices. **If a pesticide**
 33 **or device has been subject to a determination under section 3 of this 2021 Act by the Inter-**
 34 **agency Science Review Panel on Pesticides, the department listing of the pesticide or device**
 35 **must be consistent with the determination by the panel.**

36 **SECTION 13.** ORS 634.372 is amended to read:

37 634.372. A person may not:

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

40 (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless
 41 pesticide or any pesticide inconsistent with its labeling, or as a pesticide consultant or dealer, re-
 42 commend or distribute such pesticides.

43 (3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device or
 44 equipment.

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

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

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

5 (7) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesti-
6 cide applicator or certified private applicator performing the actual application, or supervising such
7 application if such is performed by a pesticide trainee. This prohibition does not apply to the oper-
8 ation of tractors, trucks or other vehicular equipment used only under the supervision of a certified
9 private applicator.

10 (8) As a pesticide applicator, work or engage in the application of any classes of pesticides
11 without first obtaining and maintaining a pesticide applicator's license, or apply pesticides that are
12 not specifically authorized by such license.

13 (9) As a pesticide operator, engage in the business of, or represent or advertise as being in the
14 business of, applying pesticides upon the land or property of another, without first obtaining and
15 maintaining a pesticide operator's license. The operator also may not engage in a class of pesticide
16 application business that is not specifically authorized by license issued by the State Department
17 of Agriculture. The operator also may not employ or use any person to apply or spray pesticides
18 who is not a licensed pesticide applicator or pesticide trainee.

19 (10) As a pesticide trainee, work or engage in the application of any class of pesticides without
20 first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with
21 the provisions of this chapter.

22 (11) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining and
23 maintaining a pesticide dealer's license.

24 (12) Act as, or purport to be, a pesticide consultant without first obtaining and maintaining a
25 pesticide consultant's license.

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

29 (14) As a person described in ORS 634.106 (5), use power-driven pesticide application equipment
30 or devices (use hand or backpack types only), or use or apply any pesticide other than those pre-
31 scribed by the department.

32 (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

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

34 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been regis-
35 tered as required by ORS 634.016 **or exempted from department regulation.**

36 (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
37 arsenic or any highly toxic fluoride that is not distinctly colored.

38 (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroke-
39 ken package.

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

44 (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to
45 plant damage as determined by the department, without first obtaining a permit for such use as

1 provided in ORS 634.322 (10).

2 (22) Sell, use or remove any pesticide or device subjected to a “stop sale, use or removal” order
3 until the pesticide or device has been released therefrom as provided in ORS 634.322 (3).

4 **SECTION 14.** ORS 634.600 is amended to read:

5 634.600. (1) There is created the Minor Crops Advisory Committee in the State Department of
6 Agriculture consisting of six members appointed by the Director of Agriculture and the coordinator
7 of the Interregional Project Number 4 program at Oregon State University who shall be a permanent
8 member.

9 (2) The director, as far as practicable, shall make appointments to the advisory committee so
10 that the committee is representative of all segments of agriculture.

11 (3) Each appointed member shall serve a term of three years beginning July 1 of the year of
12 appointment. A member shall continue to serve until a successor is appointed. Vacancies in office
13 shall be filled by appointment for the unexpired term.

14 (4) The committee shall meet at the call of the chairperson or the Director of Agriculture. A
15 majority of the members present at any meeting shall constitute a quorum, and a majority vote of
16 the quorum at any meeting shall constitute an official act of the committee.

17 (5) At the first meeting after July 1 of each year, the committee shall select a chairperson. The
18 Dean of the College of Agricultural Sciences of Oregon State University and the Director of Agri-
19 culture, or their representatives, shall be ex officio members without the right to vote.

20 (6) Members of the committee shall be eligible for compensation and expenses as provided in
21 ORS 292.495.

22 (7) The committee shall:

23 (a) Advise the department in the administration of ORS 634.016 to 634.042 as relates to minor
24 crop use registrations;

25 (b) Cooperate with the United States Department of Agriculture’s Interregional Project Number
26 4 and the United States Environmental Protection Agency in obtaining federal registrations of pes-
27 ticides for minor crop uses; and

28 (c) Maintain close contact between the department, **the Interagency Science Review Panel**
29 **on Pesticides** and agricultural producers regarding the need for research to support registration
30 of pesticides for minor crops.

31 **SECTION 15.** Sections 3 and 5 of this 2021 Act and the amendments to ORS 634.016 by
32 section 7 of this 2021 Act apply to pesticide and device registration applications received by
33 the State Department of Agriculture on or after the effective date of this 2021 Act.

34