

House Bill 2406

Sponsored by Representative NERON (Pre-session 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**.

Expands types of pesticide that may not be included in school list of low-impact pesticides for use in integrated pest management plan.

Changes and adds definitions used in statutes regarding integrated pest management plans for schools.

Imposes new pesticide use information and reporting requirements on school governing body.

Restricts ability of school governing body to delegate plan coordinator duties. Adds requirements regarding school pest prevention plan emphasis. Alters school plan coordinator training and training reporting requirements.

A BILL FOR AN ACT

1
2 Relating to integrated pest management plans for schools; creating new provisions; and amending
3 ORS 634.700, 634.705, 634.720, 634.725 and 634.750.

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

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 634.700 to**
6 **634.750.**

7 **SECTION 2. The governing body responsible for a school shall adopt a list of low-impact**
8 **pesticides for use with the school's integrated pest management plan. The governing body**
9 **may include any product on the list other than products that contain a pesticide product or**
10 **active ingredient that:**

11 (1) **Has the signal words "warning," "danger" or "restricted-use pesticide" on the label;**

12 (2) **Is identified as "toxic," "highly toxic" or "extremely toxic" in an environmental haz-**
13 **ards statement on the container label;**

14 (3) **Has a ground water advisory or a surface water advisory on the container label;**

15 (4) **On or before the effective date of this 2021 Act has been:**

16 (a) **Determined in a pesticide reregistration eligibility decision or registration review de-**
17 **cision by the United States Environmental Protection Agency to pose an unreasonable risk**
18 **of adverse effects to humans, wildlife or the environment;**

19 (b) **Classified as a human carcinogen, a probable human carcinogen or likely to be**
20 **carcinogenic to humans under United States Environmental Protection Agency guidelines for**
21 **carcinogen risk assessment;**

22 (c) **Classified as a known, likely, probable or possible carcinogen by the World Health**
23 **Organization's International Agency for Research on Cancer;**

24 (d) **Classified as known or reasonably anticipated to be a human carcinogen by the federal**
25 **National Toxicology Program;**

26 (e) **Classified in the United States Environmental Protection Agency Toxics Release In-**
27 **ventory as a cholinesterase inhibitor or neurotoxic by mode of action or a listed neurotoxic;**

28 (f) **Classified as being a known or reasonably anticipated reproductive or developmental**

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 toxicant by the federal National Toxicology Program;

2 (g) Classified as a disruptor of hormonal systems in the United States Environmental
3 Protection Agency’s Endocrine Disruptor Screening Program;

4 (h) Listed by the United States Department of Agriculture Agricultural Research Service
5 as having an average soil half-life of 100 days or more;

6 (i) Identified in pesticide product information published by the Oregon State University
7 Extension Service as having a soil half-life of 100 days or more; or

8 (j) Identified in pesticide product information published by the Oregon State University
9 Extension Service as having a ground water ubiquity score of 3.0 or more as it pertains to
10 the potential of a pesticide to move toward ground water;

11 (5) Is recognized by the State Department of Agriculture as posing an undue risk to, or
12 having undue adverse effects on, humans, domestic animals, wildlife or the environment;

13 (6) Is identified on the list of high priority chemicals of concern established by the
14 Oregon Health Authority under ORS 431A.255;

15 (7) Is identified on the Department of Environmental Quality’s toxics focus list; or

16 (8) Is known to have chemical properties that cause the pesticide to volatilize in the en-
17 vironment.

18 **SECTION 3.** ORS 634.700 is amended to read:

19 634.700. As used in ORS 634.700 to 634.750:

20 (1) “Campus” means the buildings, other structures, playgrounds, athletic fields and parking lots
21 of a school and any other areas on the school property that are accessed by students on a regular
22 basis.

23 (2) “Governing body” means a board of directors, agency or other body or person having
24 policymaking and general oversight responsibility for a community college district, education service
25 district, school district, other unit of education governance, private school or other educational en-
26 tity.

27 (3) “Integrated pest management plan” means a proactive strategy that:

28 (a) Focuses on the long-term prevention or suppression of pest problems **on school campuses**
29 through [*economically sound*] **the use of pest management** measures that:

30 (A) Protect the health and safety of students, staff and faculty **and of members of the public**
31 **who use the campus;**

32 **(B) Account for the unique vulnerability of children to pesticide exposure;**

33 **(C) Actively prevent the pesticide exposure of children;**

34 **(D) Actively reduce or limit the pesticide exposure of staff and faculty and of members**
35 **of the public who use the campus;**

36 [(B)] **(E)** Protect the integrity of campus buildings and grounds;

37 [(C)] **(F)** Maintain a productive learning environment; and

38 [(D)] **(G)** Protect local ecosystem health;

39 (b) Focuses on the prevention of pest problems by working to reduce or eliminate conditions of
40 property construction, operation and maintenance that promote or allow for the establishment,
41 feeding, breeding and proliferation of pest populations or other conditions that are conducive to
42 pests or that create harborage for pests;

43 (c) Incorporates the use of sanitation, structural remediation or habitat manipulation or of me-
44 chanical, biological **and cultural control measures that manipulate the built environment;**

45 [*and*]

1 **(d) Incorporates the planting and cultivation of vegetation to reduce pest damage and**
 2 **pest populations;**

3 **(e) Gives preference to the use of nontoxic and organic pest control measures as a first**
 4 **alternative if nonchemical control measures are ineffective;**

5 **(f) If other measures are ineffective, incorporates** chemical pest control measures [*that*
 6 *present a reduced risk or have a low impact and,*] **having the lowest possible risk and lowest**
 7 **possible impact on human health and the environment;**

8 **(g) For the purpose of mitigating a declared pest emergency or public health emergency, or**
 9 **at the direction of a public health official, incorporates** the application of pesticides that are
 10 not low-impact pesticides **and that have the lowest possible risk to human health and the en-**
 11 **vironment;**

12 [(d)] **(h)** Includes regular monitoring and inspections to detect pests, pest damage and unsanc-
 13 tioned pesticide usage;

14 [(e)] **(i)** Evaluates the need for pest control by identifying acceptable pest population density
 15 levels;

16 [(f)] **(j)** Monitors and evaluates the effectiveness of pest control measures;

17 [(g)] **(k)** Excludes the application of pesticides on a routine schedule for purely preventive pur-
 18 poses, other than applications of pesticides designed to attract or be consumed by pests;

19 [(h)] **(L)** Excludes the application of pesticides for purely aesthetic purposes **or for general**
 20 **maintenance purposes; and**

21 [(i)] **(m)** Includes school staff education about sanitation, monitoring and inspection and about
 22 pest control measures[;].

23 [(j) *Gives preference to the use of nonchemical pest control measures;*]

24 [(k) *Allows the use of low-impact pesticides if nonchemical pest control measures are ineffective;*
 25 *and*]

26 [(L) *Allows the application of a pesticide that is not a low-impact pesticide only to mitigate a de-*
 27 *clared pest emergency or if the application is by, or at the direction or order of, a public health*
 28 *official.*]

29 (4) “Low-impact pesticide” means a product that does not contain a pesticide product or active
 30 ingredient described in [ORS 634.705 (5)] **section 2 of this 2021 Act.**

31 **(5) “Organic pest control measures” means biological, cultural and mechanical practices**
 32 **that:**

33 **(a) Support the cycling of onsite and naturally occurring resources;**

34 **(b) Promote ecological balance; and**

35 **(c) Conserve biodiversity.**

36 [(5)] **(6)** “Pest” means:

37 (a) An insect or other arthropod;

38 (b) A weed, moss, slime or mildew or a plant disease caused by a fungus, bacterium or virus;

39 (c) A nematode, snail, slug, rodent or predatory animal;

40 (d) A bacterium, spore, virus, fungus or other microorganism that is harmful to human health;

41 or

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

44 [(6)] **(7)** “Pest emergency” means an urgent need to eliminate or mitigate a pest situation that
 45 threatens:

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

3 (b) The structural integrity of campus facilities.

4 [(7)] (8) "Registration number" means the pesticide registration number assigned by the United
5 States Environmental Protection Agency.

6 [(8)] (9) "School" means:

7 (a) A facility operating an Oregon prekindergarten or a federal Head Start program;

8 (b) A public or private educational institution offering education in all or part of kindergarten
9 through grade 12;

10 (c) An education service district as defined in ORS 334.003;

11 (d) A community college as defined in ORS 341.005, for the community college's own buildings
12 and ground maintenance;

13 (e) The Oregon School for the Deaf; and

14 (f) A regional residential academy operated by the Oregon Youth Authority.

15 **SECTION 4.** ORS 634.705 is amended to read:

16 634.705. (1) The governing body responsible for a school shall adopt an integrated pest manage-
17 ment plan for use on the campuses of the school. The governing body shall also adopt provisions for:

18 (a) Designating an integrated pest management plan coordinator;

19 (b) Identifying plan coordinator responsibilities;

20 (c) Giving notices under ORS 634.740;

21 (d) Retaining pesticide application records under ORS 634.750;

22 (e) Providing a process for responding to inquiries [*and complaints about noncompliance with the*
23 *integrated pest management plan; and*] **and records requests that allows students, parents, fac-**
24 **ulty, staff and community members to obtain information on pesticide applications on school**
25 **grounds;**

26 **(f) Receiving complaints about noncompliance with the integrated pest management plan;**

27 **(g) Informing persons inquiring or complaining under paragraph (f) of this subsection**
28 **that a complaint may be filed with the State Department of Agriculture; and**

29 [(f)] **(h) Conducting outreach to the school community about the school's integrated pest man-**
30 **agement plan.**

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

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

37 (4)(a) **Notwithstanding the definition of "pesticide" found in ORS 634.006, the following**
38 **products or substances are not considered pesticides for purposes of an integrated pest**
39 **management plan:**

40 **(A) Disinfectants, sanitizers, insecticidal soap, antimicrobials, mold and mildewcides,**
41 **closed-loop water treatment, or other cleaning products.**

42 **(B) Drugs used to control diseases of humans or animals such as livestock and pets.**

43 **(C) Products intended to aid the growth of desirable plants and fertilizer products not**
44 **containing a pesticide.**

45 **(D) Biological control agents and minimum risk pesticides that, on or before the effective**

1 **date of this 2021 Act, have been determined by the Administrator of the Environmental**
 2 **Protection Agency to be of a character not requiring registration under the Federal**
 3 **Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 et seq., as amended.**

4 **(b) This subsection does not permit the application of a product or substance described**
 5 **in paragraph (a) of this subsection in a manner that is inconsistent with the goal of an in-**
 6 **tegrated pest management plan.** [*Unless a governing body expressly provides otherwise, the appli-*
 7 *cation of a germicide, disinfectant, sanitizer, deodorizer, antimicrobial agent or insecticidal soap at a*
 8 *campus is not subject to the requirements for a pesticide application under an integrated pest manage-*
 9 *ment plan. However, this subsection does not permit the application at a campus of a germicide,*
 10 *disinfectant, sanitizer, deodorizer, antimicrobial agent or insecticidal soap that is a pesticide in a*
 11 *manner that is inconsistent with the goal of the integrated pest management plan.*]

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

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

16 [(b) Contain a pesticide product classified as a human carcinogen or probable human carcinogen
 17 under the United States Environmental Protection Agency 1986 guidelines for carcinogen risk assess-
 18 ment; or]

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

22 **SECTION 5.** ORS 634.720 is amended to read:

23 634.720. (1) The governing body shall provide for the designation of one or more persons as in-
 24 tegrated pest management plan coordinators for the governed schools. **Except as provided in this**
 25 **subsection,** a plan coordinator must be an employee of the governed district, unit, school or
 26 entity[, *unless the governing body delegates*]. **A governing body may delegate** pest management
 27 duties to an independent contractor **that holds a certificate issued under ORS 634.306 for inte-**
 28 **grated pest management work.** Each school shall have the services of at least one integrated pest
 29 management plan coordinator. A plan coordinator may serve more than one school. The responsi-
 30 bilities of the plan coordinator shall include, but need not be limited to:

31 (a) Giving notice and posting warnings under ORS 634.740;

32 (b) Overseeing pest prevention efforts, **with an emphasis on pest exclusion, weed prevention**
 33 **and the use of nonchemical or organic control measures;**

34 (c) Providing for the identification and evaluation of pest situations;

35 (d) Determining the means of appropriately managing pest damage that will cause the least
 36 possible hazard to people, property and the environment;

37 (e) Ensuring the proper and lawful performance of pesticide applications;

38 (f) Evaluating pest management results; [*and*]

39 (g) Keeping records as required by ORS 634.750[.]; **and**

40 **(h) Preparing the annual report described in ORS 634.750 (5).**

41 (2) A plan coordinator shall complete not less than six hours of training [*each year*] **during a**
 42 **two-year period. The plan coordinator shall provide the school administrator with documen-**
 43 **tation of training.** The training shall include at least a general review of:

44 **(a) The health risks to children from pesticide exposure;**

45 **(b) Integrated pest management principles; and**

1 (c) The requirements of ORS 634.700 to 634.750.

2 **SECTION 6.** ORS 634.725 is amended to read:

3 634.725. If a school has followed the integrated pest management plan and nonchemical **and**
4 **organic** pest control measures were ineffective, subject to ORS 634.730 the integrated pest man-
5 agement plan coordinator may authorize the application of a low-impact pesticide. The low-impact
6 pesticide application must be made by a pesticide applicator or by a public applicator. The use of
7 a pesticide applicator or public applicator to make an application does not cancel, alter or reassign
8 any of the duties imposed under ORS 634.740 or 634.750.

9 **SECTION 7.** ORS 634.750 is amended to read:

10 634.750. (1) If a pesticide is applied at a campus, the integrated pest management plan coordi-
11 nator or a designee of the coordinator shall place the labeling information and material data safety
12 sheet for the pesticide on file at a school on the campus. The plan coordinator or designee shall
13 record and make available the following information:

14 (a) The brand name or trademark of the pesticide product;

15 (b) The United States Environmental Protection Agency registration number assigned to the
16 pesticide product;

17 (c) The pest condition that prompted the application;

18 (d) A description of the area on campus where the application occurred;

19 (e) The approximate amount and concentration of pesticide product applied;

20 (f) The type of application and whether the application proved effective;

21 (g) The pesticide applicator or public applicator license numbers and pesticide trainee or public
22 trainee certificate numbers of the persons applying the pesticide;

23 (h) The names of the persons applying the pesticide;

24 (i) The dates on which the plan coordinator gave any notices required by ORS 634.740; and

25 (j) The dates and times for the placement and removal of warning signs under ORS 634.740.

26 (2) Pesticide application records must include copies of all notices given under ORS 634.740.

27 (3) A school shall retain pesticide application records required by this section for at least four
28 years following the application date.

29 **(4) Pesticide application records shall be made available to a requester at any time**
30 **without cost.**

31 **(5)(a) A plan coordinator shall provide an annual report to the governing body for the**
32 **school. The report shall include, but need not be limited to, information regarding:**

33 **(A) Personnel training regarding integrated pest management and pesticides;**

34 **(B) Pest prevention efforts; and**

35 **(C) Pesticide applications made at the school.**

36 **(b) A school shall make an annual report described in this section accessible to the public**
37 **without charge on a website maintained by the school or in paper form if requested. The**
38 **school shall make the report accessible on the website no later than 30 days after the end**
39 **of a regular school year.**

40