

A-Engrossed Senate Bill 360

Ordered by the House May 23
Including House Amendments dated May 23

Sponsored by Senator SMITH DB; Representatives BOICE, LEVY B (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act allows some workers to apply pesticides without a license if they use a device that runs on a battery. (Flesch Readability Score: 60.6).

Creates a pesticide licensing exemption for certain employees using a battery-powered device to apply pesticides.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to machine-powered pesticide application devices; creating new provisions; amending ORS
3 634.116; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 634.**

6 **SECTION 2. (1) As used in this section, "campus" and "school" have the meanings given**
7 **those terms in ORS 634.700.**

8 **(2) Notwithstanding ORS 634.116 (13) and (15)(b), an employee of the agencies, instru-**
9 **mentalities, subdivisions, counties, cities, towns, municipal corporations, districts, govern-**
10 **mental bodies, Indian tribes or utilities described in ORS 634.116 (12) is not required to hold**
11 **a license as a public applicator or a certificate as a public trainee when applying a pesticide**
12 **using a machine-powered device if:**

13 **(a) The pesticide is not a restricted-use pesticide;**

14 **(b) The machine-powered device is powered by an electric battery and holds no more than**
15 **five gallons of pesticide;**

16 **(c) The application is not made on the campus of a school; and**

17 **(d) The employee has completed training as provided in subsection (3) of this section.**

18 **(3) An employer shall provide training to an employee before the employee uses a**
19 **machine-powered device for pesticide application as described in subsection (2) of this sec-**
20 **tion. The training must utilize applicable training materials that address the safe:**

21 **(a) Handling, application and storage of pesticides that are not restricted-use pesticides;**
22 **and**

23 **(b) Use of machine-powered devices for pesticide application.**

24 **(4) An employer shall create and maintain records for each employee that has completed**
25 **the training described in subsection (3) of this section for the duration of the employee's**
26 **employment. The employer shall make the records available to the State Department of**

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 **Agriculture for inspection upon request.**

2 (5) **Nothing in this section relieves an employee or employer from complying with any**
3 **other applicable law or administrative rule pertaining to pesticides.**

4 **SECTION 3.** ORS 634.116 is amended to read:

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

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

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

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

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

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

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

42 (b) If the applicant or licensee is to be engaged in the business of controlling or eradicating
43 structural pests, or pests within a public or private place, or pests within private or public places
44 where food is served, prepared or processed or where persons are regularly housed, the financial
45 responsibility required by this section shall apply to damages or injury to real or personal property

1 being worked upon, as well as all the other real and personal property set forth in this section.

2 (6) The financial responsibility required by subsection (5) of this section must be not less than
3 \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property damage.

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

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

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

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

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

29 (12)(a) The United States, the State of Oregon or federal, state or local agencies, instrument-
30 alities, political subdivisions, counties, cities, towns, municipal corporations, irrigation, drainage or
31 other districts, other federal, state or local governmental bodies or Indian tribes are not required
32 to obtain a license as a pesticide operator or to furnish evidence of financial responsibility to the
33 department when:

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

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

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

41 (i) The land is in a jurisdiction adjacent to property under their ownership, possession, control
42 or jurisdiction;

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

45 (iii) The pesticide application is done on a cost recovery, cooperative trade of services or no

1 cost basis, and not as a source for profit.

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

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

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

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

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

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

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

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

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

31 (b) The application of any pesticide by using a machine-powered device, **except as provided in**
32 **section 2 of this 2025 Act**; or

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

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

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

43 (18) Before issuing any pesticide license or certificate, or the renewal thereof, to an employee
44 of an Indian tribe, to a business entity of an Indian tribe or to an employee of a business entity of
45 an Indian tribe, the department shall enter into a mutually acceptable agreement with the Indian

1 tribe or business entity to enable the department to administer and enforce the provisions of this
2 chapter and rules adopted under this chapter with respect to the Indian tribe or business entity.

3 **SECTION 4. (1) Section 2 of this 2025 Act and the amendments to ORS 634.116 by section**
4 **3 of this 2025 Act become operative on January 1, 2026.**

5 **(2) The State Department of Agriculture may take any action before the operative date**
6 **specified in subsection (1) of this section that is necessary to enable the department to ex-**
7 **ercise, on and after the operative date specified in subsection (1) of this section, all of the**
8 **duties, functions and powers conferred on the department by section 2 of this 2025 Act and**
9 **the amendments to ORS 634.116 by section 3 of this 2025 Act.**

10 **SECTION 5. This 2025 Act takes effect on the 91st day after the date on which the 2025**
11 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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