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**HOUSE BILL 2624**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Shewmake, Kretz, Blake, and Dent; by request of Department of Agriculture

1 AN ACT Relating to the authority of the director of the  
2 department of agriculture with respect to certain examinations and  
3 examination fees; and amending RCW 15.58.040, 15.58.240, 17.21.030,  
4 and 17.21.134.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 15.58.040 and 2003 c 212 s 2 are each amended to  
7 read as follows:

8 (1) The director shall administer and enforce the provisions of  
9 this chapter and rules adopted under this chapter. All the authority  
10 and requirements provided for in chapter 34.05 RCW (Administrative  
11 Procedure Act) and chapter 42.30 RCW shall apply to this chapter in  
12 the adoption of rules including those requiring due notice and a  
13 hearing for the adoption of permanent rules.

14 (2) The director is authorized to adopt appropriate rules for  
15 carrying out the purpose and provisions of this chapter, including  
16 but not limited to rules providing for:

17 (a) Declaring as a pest any form of plant or animal life or virus  
18 which is injurious to plants, people, animals (domestic or  
19 otherwise), land, articles, or substances;

20 (b) Determining that certain pesticides are highly toxic to  
21 people. For the purpose of this chapter, highly toxic pesticide means

1 any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10  
2 for toxicity category I due to oral inhalation or dermal toxicity.  
3 The director shall publish a list of all pesticides, determined to be  
4 highly toxic, by their common or generic name and their trade or  
5 brand name if practical. Such list shall be kept current and shall,  
6 upon request, be made available to any interested party;

7 (c) Determining standards for denaturing pesticides by color,  
8 taste, odor, or form;

9 (d) The collection and examination of samples of pesticides or  
10 devices;

11 (e) The safe handling, transportation, storage, display,  
12 distribution, and disposal of pesticides and their containers;

13 (f) Restricting or prohibiting the use of certain types of  
14 containers or packages for specific pesticides. These restrictions  
15 may apply to type of construction, strength, and/or size to alleviate  
16 danger of spillage, breakage, misuse, or any other hazard to the  
17 public. The director shall be guided by federal regulations  
18 concerning pesticide containers;

19 (g) Procedures in making of pesticide recommendations;

20 (h) Adopting a list of restricted use pesticides for the state or  
21 for designated areas within the state if the director determines that  
22 such pesticides may require rules restricting or prohibiting their  
23 distribution or use. The director may include in the rule the time  
24 and conditions of distribution or use of such restricted use  
25 pesticides and may, if it is found necessary to carry out the purpose  
26 and provisions of this chapter, require that any or all restricted  
27 use pesticides shall be purchased, possessed, or used only under  
28 permit of the director and under the director's direct supervision in  
29 certain areas and/or under certain conditions or in certain  
30 quantities or concentrations. The director may require all persons  
31 issued such permits to maintain records as to the use of all the  
32 restricted use pesticides;

33 (i) Label requirements of all pesticides required to be  
34 registered under provisions of this chapter;

35 (j) Regulating the labeling of devices;

36 (k) The establishment of criteria governing the conduct of a  
37 structural pest inspection;

38 (l) Declaring crops, when grown to produce seed specifically for  
39 crop reproduction purposes, to be nonfood and/or nonfeed sites of  
40 pesticide application. The director may include in the rule any

1 restrictions or conditions regarding: (i) The application of  
2 pesticides to the designated crops; and (ii) the disposition of any  
3 portion of the treated crop;

4 (m) Governing the fixing and collecting of examination fees; and  
5 (n) Requiring individuals to earn recertification credits in the  
6 classifications in which they are licensed.

7 (3) For the purpose of uniformity and to avoid confusion  
8 endangering the public health and welfare the director may adopt  
9 rules in conformity with the primary pesticide standards,  
10 particularly as to labeling, established by the United States  
11 environmental protection agency or any other federal agency.

12 **Sec. 2.** RCW 15.58.240 and 1989 c 380 s 20 are each amended to  
13 read as follows:

14 The director may classify licenses to be issued under the  
15 provisions of this chapter. Such classifications may include but not  
16 be limited to agricultural crops, ornamentals, or noncrop land  
17 herbicides. If the licensee has a classified license the licensee  
18 shall be limited to practicing within these classifications. Each  
19 such classification shall be subject to separate testing procedures  
20 and requirements: PROVIDED, That no person shall be required to pay  
21 an additional license fee if the person desires to be licensed in one  
22 or all of the license classifications provided for by the director  
23 under the authority of this section. The director may charge ((an))  
24 examination fees established by the director by rule ((when an  
25 examination is necessary, before a license may be issued or when  
26 application for a license and examination is made at other than a  
27 regularly scheduled examination date)). The director may administer  
28 or contract with a public or private third-party entity to administer  
29 any or all parts of either the examination or the collection of  
30 examination fees, or both. Examinations administered by third-party  
31 entities must be the same as the examination that would otherwise be  
32 administered by the department. The department may direct that the  
33 applicant pay the fees to the third-party entity in accordance with  
34 department rules governing third-party examinations and fees. The  
35 director may renew any applicant's license under the classification  
36 for which the applicant is licensed, subject to reexamination or  
37 other recertification standards as determined by the director when  
38 deemed necessary because new knowledge or new classifications are  
39 required to carry out the responsibilities of the licensee.

1       **Sec. 3.** RCW 17.21.030 and 1994 c 283 s 2 are each amended to  
2 read as follows:

3       The director shall administer and enforce the provisions of this  
4 chapter and rules adopted under this chapter.

5       (1) The director may adopt rules:

6       (a) Governing the loading, mixing, application and use, or  
7 prohibiting the loading, mixing, application, or use of any  
8 pesticide;

9       (b) Governing the time when, and the conditions under which  
10 restricted use pesticides shall or shall not be used in different  
11 areas as prescribed by the director in the state;

12       (c) Providing that any or all restricted use pesticides shall be  
13 purchased, possessed or used only under permit of the director and  
14 under the director's direct supervision in certain areas and/or under  
15 certain conditions or in certain quantities of concentrations;  
16 however, any person licensed to sell such pesticides may purchase and  
17 possess such pesticides without a permit;

18       (d) Establishing recordkeeping requirements for licensees,  
19 permittees, and certified applicators;

20       (e) Governing the fixing and collecting of examination fees  
21 ~~((and))~~;

22       (f) Fixing and collecting fees for recertification course  
23 sponsorship;

24       ~~((f))~~ (g) Establishing testing procedures, licensing  
25 classifications, and requirements for licenses and permits, and  
26 criteria for assigning recertification credit to and procedures for  
27 department approval of courses as provided by this chapter;

28       ~~((g))~~ (h) Concerning training by employers for employees who  
29 mix and load pesticides;

30       ~~((h))~~ (i) Concerning minimum performance standards for spray  
31 boom and nozzles used in pesticide applications to minimize spray  
32 drift and establishing a list of approved spray nozzles that meet  
33 these standards; and

34       ~~((i))~~ (j) Fixing and collecting permit fees.

35       (2) The director may adopt any other rules necessary to carry out  
36 the purpose and provisions of this chapter.

37       **Sec. 4.** RCW 17.21.134 and 1994 c 283 s 17 are each amended to  
38 read as follows:

1           (1) The director shall not issue a commercial pesticide  
2 applicator license until the applicant, if he or she is the sole  
3 owner and manager of the business has passed examinations in all  
4 classifications that the business operates. If there is more than one  
5 owner or the owner does not participate in the pesticide application  
6 activities, the person managing the pesticide application activities  
7 of the business shall be licensed in all classifications that the  
8 business operates. The director shall not issue a commercial  
9 pesticide operator, public operator, private commercial applicator,  
10 or demonstration and research applicator license until the applicant  
11 has passed an examination demonstrating knowledge of:

12           (a) How to apply pesticides under the classification for which he  
13 or she has applied, manually or with the various apparatuses that he  
14 or she may operate;

15           (b) The nature and effect of pesticides he or she may apply under  
16 such classifications; and

17           (c) Any other matter the director determines to be a necessary  
18 subject for examination.

19           (2) The director ~~((shall))~~ may charge ~~((an))~~ examination fees  
20 ~~((established by rule when an examination is necessary before a~~  
21 ~~license may be issued or when application for such license and~~  
22 ~~examination is made at other than a regularly scheduled examination~~  
23 ~~date))~~ established by the director by rule. The director may  
24 administer or contract with a public or private third-party entity to  
25 administer any or all parts of either the examination or the  
26 collection of examination fees, or both. Examinations administered by  
27 third-party entities must be the same as the examination that would  
28 otherwise be administered by the department. The department may  
29 direct that the applicant pay the fees to the third-party entity in  
30 accordance with department rules governing third-party examinations  
31 and fees.

32           (3) The director may prescribe separate testing procedures and  
33 requirements for each license.

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