

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5533**

57th Legislature  
2001 Regular Session

Passed by the Senate April 21, 2001  
YEAS 43 NAYS 3

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 20, 2001  
YEAS 88 NAYS 4

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

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**Speaker of the  
House of Representatives**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5533** as passed by the Senate and the House of Representatives on the dates hereon set forth.

\_\_\_\_\_  
**Secretary**

FILED

**Secretary of State  
State of Washington**



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**SUBSTITUTE SENATE BILL 5533**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

**State of Washington                      57th Legislature                      2001 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators Eide, Rasmussen, Swecker, Patterson, Fairley, Zarelli, Roach, Jacobsen, Kohl-Welles, Costa, McAuliffe, Spanel, Franklin, Shin, B. Sheldon, Constantine, Hargrove, Kastama, Prentice, Kline, Stevens and Gardner; by request of Department of Agriculture)

READ FIRST TIME 02/13/01.

1        AN ACT Relating to posting and notification of pesticide  
2 applications at schools; amending RCW 17.21.020 and 17.21.410; adding  
3 a new section to chapter 17.21 RCW; adding a new section to chapter  
4 28A.320 RCW; adding a new section to chapter 74.15 RCW; creating a new  
5 section; and providing an effective date.

6

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

8

9        **Sec. 1.** RCW 17.21.020 and 1994 c 283 s 1 are each amended to read  
10 as follows:

11        Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

13        (1) "Agricultural commodity" means any plant or part of a plant,  
14 or animal, or animal product, produced by a person (including farmers,  
15 ranchers, vineyardists, plant propagators, Christmas tree growers,  
16 aquaculturists, floriculturists, orchardists, foresters, or other  
17 comparable persons) primarily for sale, consumption, propagation, or  
18 other use by people or animals.

19        (2) "Agricultural land" means land on which an agricultural  
20 commodity is produced or land that is in a government-recognized  
21 conservation reserve program. This definition does not apply to

1 private gardens where agricultural commodities are produced for  
2 personal consumption.

3 (3) "Antimicrobial pesticide" means a pesticide that is used for  
4 the control of microbial pests, including but not limited to viruses,  
5 bacteria, algae, and protozoa, and is intended for use as a  
6 disinfectant or sanitizer.

7 (4) "Apparatus" means any type of ground, water, or aerial  
8 equipment, device, or contrivance using motorized, mechanical, or  
9 pressurized power and used to apply any pesticide on land and anything  
10 that may be growing, habitating, or stored on or in such land, but  
11 shall not include any pressurized handsized household device used to  
12 apply any pesticide, or any equipment, device, or contrivance of which  
13 the person who is applying the pesticide is the source of power or  
14 energy in making such pesticide application, or any other small  
15 equipment, device, or contrivance that is transported in a piece of  
16 equipment licensed under this chapter as an apparatus.

17 ((+4)) (5) "Arthropod" means any invertebrate animal that belongs  
18 to the phylum arthropoda, which in addition to insects, includes  
19 allied classes whose members are wingless and usually have more than  
20 six legs; for example, spiders, mites, ticks, centipedes, and isopod  
21 crustaceans.

22 ((+5)) (6) "Certified applicator" means any individual who is  
23 licensed as a commercial pesticide applicator, commercial pesticide  
24 operator, public operator, private-commercial applicator,  
25 demonstration and research applicator, or certified private  
26 applicator, or any other individual who is certified by the director  
27 to use or supervise the use of any pesticide which is classified by  
28 the EPA or the director as a restricted use pesticide.

29 ((+6)) (7) "Commercial pesticide applicator" means any person who  
30 engages in the business of applying pesticides to the land of another.

31 ((+7)) (8) "Commercial pesticide operator" means any employee of  
32 a commercial pesticide applicator who uses or supervises the use of  
33 any pesticide and who is required to be licensed under provisions of  
34 this chapter.

35 ((+8)) (9) "Defoliant" means any substance or mixture of  
36 substances intended to cause the leaves or foliage to drop from a  
37 plant with or without causing abscission.

38 ((+9)) (10) "Department" means the Washington state department of  
39 agriculture.

1       (~~(10)~~) (11) "Desiccant" means any substance or mixture of  
2 substances intended to artificially accelerate the drying of plant  
3 tissues.

4       (~~(11)~~) (12) "Device" means any instrument or contrivance  
5 intended to trap, destroy, control, repel, or mitigate pests, but not  
6 including equipment used for the application of pesticides when sold  
7 separately from the pesticides.

8       (~~(12)~~) (13) "Direct supervision" by certified private  
9 applicators shall mean that the designated restricted use pesticide  
10 shall be applied for purposes of producing any agricultural commodity  
11 on land owned or rented by the applicator or the applicator's  
12 employer, by a competent person acting under the instructions and  
13 control of a certified private applicator who is available if and when  
14 needed, even though such certified private applicator is not  
15 physically present at the time and place the pesticide is applied.  
16 The certified private applicator shall have direct management  
17 responsibility and familiarity of the pesticide, manner of  
18 application, pest, and land to which the pesticide is being applied.  
19 Direct supervision by all other certified applicators means direct on-  
20 the-job supervision and shall require that the certified applicator be  
21 physically present at the application site and that the person making  
22 the application be in voice and visual contact with the certified  
23 applicator at all times during the application. Direct supervision of  
24 an aerial apparatus means the pilot of the aircraft must be  
25 appropriately certified.

26       (~~(13)~~) (14) "Director" means the director of the department or a  
27 duly authorized representative.

28       (~~(14)~~) (15) "Engage in business" means any application of  
29 pesticides by any person upon lands or crops of another.

30       (~~(15)~~) (16) "EPA" means the United States environmental  
31 protection agency.

32       (~~(16)~~) (17) "EPA restricted use pesticide" means any pesticide  
33 classified for restricted use by the administrator, EPA.

34       (~~(17)~~) (18) "FIFRA" means the federal insecticide, fungicide and  
35 rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

36       (~~(18)~~) (19) "Fumigant" means any pesticide product or  
37 combination of products that is a vapor or gas or forms a vapor or gas  
38 on application and whose method of pesticidal action is through the  
39 gaseous state.

1 ((+19)) (20) "Fungi" means all nonchlorophyll-bearing  
2 thallophytes (all nonchlorophyll-bearing plants of lower order than  
3 mosses and liverworts); for example, rusts, smuts, mildews, molds, and  
4 yeasts, except those on or in a living person or other animals.

5 ((+20)) (21) "Fungicide" means any substance or mixture of  
6 substances intended to prevent, destroy, repel, or mitigate any fungi.

7 ((+21)) (22) "Herbicide" means any substance or mixture of  
8 substances intended to prevent, destroy, repel, or mitigate any weed  
9 or other higher plant.

10 ((+22)) (23) "Immediate service call" means a landscape  
11 application to satisfy an emergency customer request for service, or a  
12 treatment to control a pest to landscape plants.

13 ((+23)) (24) "Insect" means any small invertebrate animal, in any  
14 life stage, whose adult form is segmented and which generally belongs  
15 to the class insecta, comprised of six-legged, usually winged forms,  
16 as, for example, beetles, bugs, bees, and flies. The term insect  
17 shall also apply to other allied classes of arthropods whose members  
18 are wingless and usually have more than six legs, for example,  
19 spiders, mites, ticks, centipedes, and isopod crustaceans.

20 ((+24)) (25) "Insecticide" means any substance or mixture of  
21 substances intended to prevent, destroy, repel, or mitigate any  
22 insect.

23 ((+25)) (26) "Land" means all land and water areas, including  
24 airspace and all plants, animals, structures, buildings, devices, and  
25 contrivances, appurtenant to or situated on, fixed or mobile,  
26 including any used for transportation.

27 ((+26)) (27) "Landscape application" means an application ((~~by a~~  
28 ~~certified applicator~~)) of any EPA registered pesticide to any exterior  
29 landscape ((~~(plants found)~~) area around residential property,  
30 commercial properties such as apartments or shopping centers, parks,  
31 golf courses, schools including nursery schools and licensed day  
32 cares, or cemeteries or similar areas. This definition shall not  
33 apply to: (a) Applications made by certified private applicators; (b)  
34 mosquito abatement, gypsy moth eradication, or similar wide-area pest  
35 control programs sponsored by governmental entities; and (c)  
36 commercial pesticide applicators making structural applications.

37 ((+27)) (28) "Nematocide" means any substance or mixture of  
38 substances intended to prevent, destroy, repel, or mitigate nematodes.

39 ((+28)) (29) "Nematode" means any invertebrate animal of the

1 phylum nemathelminthes and class nematoda, that is, unsegmented round  
2 worms with elongated, fusiform, or saclike bodies covered with  
3 cuticle, and inhabiting soil, water, plants or plant parts. Nematodes  
4 may also be called nemas or eelworms.

5 ~~((+29+))~~ (30) "Person" means any individual, partnership,  
6 association, corporation, or organized group of persons whether or not  
7 incorporated.

8 ~~((+30+))~~ (31) "Pest" means, but is not limited to, any insect,  
9 rodent, nematode, snail, slug, weed, and any form of plant or animal  
10 life or virus, except virus, bacteria, or other microorganisms on or  
11 in a living person or other animal or in or on processed food or  
12 beverages or pharmaceuticals, which is normally considered to be a  
13 pest, or which the director may declare to be a pest.

14 ~~((+31+))~~ (32) "Pesticide" means, but is not limited to:

15 (a) Any substance or mixture of substances intended to prevent,  
16 destroy, control, repel, or mitigate any pest;

17 (b) Any substance or mixture of substances intended to be used as  
18 a plant regulator, defoliant or desiccant; and

19 (c) Any spray adjuvant, such as a wetting agent, spreading agent,  
20 deposit builder, adhesive, emulsifying agent, deflocculating agent,  
21 water modifier, or similar agent with or without toxic properties of  
22 its own intended to be used with any pesticide as an aid to the  
23 application or effect thereof, and sold in a package or container  
24 separate from that of the pesticide with which it is to be used.

25 ~~((+32+))~~ (33) "Pesticide advisory board" means the pesticide  
26 advisory board as provided for in this chapter.

27 ~~((+33+))~~ (34) "Plant regulator" means any substance or mixture of  
28 substances intended through physiological action, to accelerate or  
29 retard the rate of growth or maturation, or to otherwise alter the  
30 behavior of ornamental or crop plants or their produce, but shall not  
31 include substances insofar as they are intended to be used as plant  
32 nutrients, trace elements, nutritional chemicals, plant inoculants, or  
33 soil amendments.

34 ~~((+34+))~~ (35) "Private applicator" means a certified applicator  
35 who uses or is in direct supervision of the use of any pesticide  
36 classified by the EPA or the director as a restricted use pesticide,  
37 for the purposes of producing any agricultural commodity and for any  
38 associated noncrop application on land owned or rented by the  
39 applicator or the applicator's employer or if applied without

1 compensation other than trading of personal services between producers  
2 of agricultural commodities on the land of another person.

3 ~~((+35+))~~ (36) "Private-commercial applicator" means a certified  
4 applicator who uses or supervises the use of any pesticide classified  
5 by the EPA or the director as a restricted use pesticide for purposes  
6 other than the production of any agricultural commodity on lands owned  
7 or rented by the applicator or the applicator's employer.

8 ~~((+36+))~~ (37) "Residential property" includes property less than  
9 one acre in size zoned as residential by a city, town, or county, but  
10 does not include property zoned as agricultural or agricultural  
11 homesites.

12 ~~((+37+))~~ (38) "Restricted use pesticide" means any pesticide or  
13 device which, when used as directed or in accordance with a widespread  
14 and commonly recognized practice, the director determines, subsequent  
15 to a hearing, requires additional restrictions for that use to prevent  
16 unreasonable adverse effects on the environment including people,  
17 lands, beneficial insects, animals, crops, and wildlife, other than  
18 pests.

19 ~~((+38+))~~ (39) "Rodenticide" means any substance or mixture of  
20 substances intended to prevent, destroy, repel, or mitigate rodents,  
21 or any other vertebrate animal which the director may declare by rule  
22 to be a pest.

23 ~~((+39+))~~ (40) "School facility" means any facility used for  
24 licensed day care center purposes or for the purposes of a public  
25 kindergarten or public elementary or secondary school. School  
26 facility includes the buildings or structures, playgrounds, landscape  
27 areas, athletic fields, school vehicles, or any other area of school  
28 property.

29 (41) "Snails or slugs" include all harmful mollusks.

30 ~~((+40+))~~ (42) "Unreasonable adverse effects on the environment"  
31 means any unreasonable risk to people or the environment taking into  
32 account the economic, social, and environmental costs and benefits of  
33 the use of any pesticide, or as otherwise determined by the director.

34 ~~((+41+))~~ (43) "Weed" means any plant which grows where it is not  
35 wanted.

36

37 **Sec. 2.** RCW 17.21.410 and 1994 c 283 s 33 are each amended to  
38 read as follows:



1 (1) A certified applicator making a landscape application to:  
2 (a) Residential property shall at the time of the application  
3 place a marker at the usual point of entry to the property. If the  
4 application is made to an isolated spot that is not a substantial  
5 portion of the property, the applicator shall only be required to  
6 place a marker at the application site. If the application is in a  
7 fenced or otherwise isolated backyard, no marker is required.  
8 (b) Commercial properties such as apartments or shopping centers  
9 shall at the time of application place a marker in a conspicuous  
10 location at or near each site being treated.  
11 (c) A golf course shall at the time of the application place a  
12 marker at the first tee and tenth tee or post the information in a  
13 conspicuous location such as on a central message board.  
14 (d) A school, nursery school, or licensed day care shall at the  
15 time of the application place a marker at each primary point of entry  
16 to the school grounds. A school employee making an application to a  
17 school facility shall comply with the posting requirements in section  
18 3 of this act.  
19 (e) A park, cemetery, rest stop, or similar property as may be  
20 defined in rule shall at the time of the application place a marker at  
21 each primary point of entry.  
22 (2) An individual making a landscape application to a school  
23 grounds, nursery school, or licensed day care, and not otherwise  
24 covered by subsection (1) of this section, shall ~~((be required to~~  
25 ~~comply with the posting requirements in subsection (1)(d) of this~~  
26 ~~section))~~ at the time of the application place a marker at each  
27 primary point of entry to the school grounds.  
28 (3) The marker shall be a minimum of four inches by five inches.  
29 It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the  
30 headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger  
31 size requirements for markers may be established in rule for specific  
32 applications. The company name and service mark ~~((with the~~  
33 ~~applicator's telephone number where information can be obtained))~~  
34 shall be included between the headline and the footer on ~~((the marker.~~  
35 ~~The letters and service marks))~~ a marker placed by a commercial  
36 applicator. The applicator's telephone number where information can  
37 be obtained about the application shall be included in the footer of  
38 the marker. Markers shall be printed in colors contrasting to the  
39 background.

1 (4) The property owner or tenant shall remove the marker according  
2 to the schedule established in rule. A (~~commercial~~) certified  
3 applicator or individual who complies with this section is not liable  
4 for the removal of markers by unauthorized persons or removal outside  
5 the designated removal time.

6 (5) A certified applicator or individual who complies with this  
7 section cannot be held liable for personal property damage or bodily  
8 injury resulting from markers that are placed as required.

9

10 NEW SECTION. Sec. 3. A new section is added to chapter 17.21 RCW  
11 to read as follows:

12 (1) As used in this section, "school" means a licensed day care  
13 center or a public kindergarten or a public elementary or secondary  
14 school.

15 (2) A school shall provide written notification annually or upon  
16 enrollment to parents or guardians of students and employees  
17 describing the school's pest control policies and methods, including  
18 the posting and notification requirements of this section.

19 (3) A school shall establish a notification system that, as a  
20 minimum, notifies interested parents or guardians of students and  
21 employees at least forty-eight hours before a pesticide application to  
22 a school facility. The notification system shall include posting of  
23 the notification in a prominent place in the main office of the  
24 school.

25 (4) All notifications to parents, guardians, and employees shall  
26 include the heading "Notice: Pesticide Application" and, at a  
27 minimum, shall state:

- 28 (a) The product name of the pesticide to be applied;
- 29 (b) The intended date and time of application;
- 30 (c) The location to which the pesticide is to be applied;
- 31 (d) The pest to be controlled; and
- 32 (e) The name and phone number of a contact person at the school.

33 (5) A school facility application must be made within forty-eight  
34 hours following the intended date and time stated in the notification  
35 or the notification process shall be repeated.

36 (6) A school shall, at the time of application, post notification  
37 signs for all pesticide applications made to school facilities unless  
38 the application is otherwise required to be posted by a certified

1 applicator under the provisions of RCW 17.21.410(1)(d).

2 (a) Notification signs for applications made to school grounds by  
3 school employees shall be placed at the location of the application  
4 and at each primary point of entry to the school grounds. The signs  
5 shall be a minimum of four inches by five inches and shall include the  
6 words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH  
7 PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION  
8 PLEASE CALL" as the footer. The footer shall provide the name and  
9 telephone number of a contact person at the school.

10 (b) Notification signs for applications made to school facilities  
11 other than school grounds shall be posted at the location of the  
12 application. The signs shall be a minimum of eight and one-half by  
13 eleven inches and shall include the heading "Notice: Pesticide  
14 Application" and, at a minimum, shall state:

- 15 (i) The product name of the pesticide applied;
- 16 (ii) The date and time of application;
- 17 (iii) The location to which the pesticide was applied;
- 18 (iv) The pest to be controlled; and
- 19 (v) The name and phone number of a contact person at the school.

20 (c) Notification signs shall be printed in colors contrasting to  
21 the background.

22 (d) Notification signs shall remain in place for at least  
23 twenty-four hours from the time the application is completed. In the  
24 event the pesticide label requires a restricted entry interval greater  
25 than twenty-four hours, the notification sign shall remain in place  
26 consistent with the restricted entry interval time as required by the  
27 label.

28 (7) A school facility application does not include the application  
29 of antimicrobial pesticides or the placement of insect or rodent baits  
30 that are not accessible to children.

31 (8) The prenotification requirements of this section do not apply  
32 if the school facility application is made when the school is not  
33 occupied by students for at least two consecutive days after the  
34 application.

35 (9) The prenotification requirements of this section do not apply  
36 to any emergency school facility application for control of any pest  
37 that poses an immediate human health or safety threat, such as an  
38 application to control stinging insects. When an emergency school  
39 facility application is made, notification consistent with the

1 school's notification system shall occur as soon as possible after the  
2 application. The notification shall include information consistent  
3 with subsection (6)(b) of this section.

4 (10) A school shall make the records of all pesticide applications  
5 to school facilities required under this chapter, including an annual  
6 summary of the records, readily accessible to interested persons.

7 (11) A school is not liable for the removal of signs by  
8 unauthorized persons. A school that complies with this section may  
9 not be held liable for personal property damage or bodily injury  
10 resulting from signs that are placed as required.

11  
12 NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320  
13 RCW to read as follows:

14 Schools as defined in section 3 of this act shall provide notice  
15 of pesticide use to parents or guardians of students and employees  
16 pursuant to chapter 17.21 RCW.

17  
18 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.15 RCW  
19 to read as follows:

20 Licensed day care centers shall provide notice of pesticide use to  
21 parents or guardians of students and employees pursuant to chapter  
22 17.21 RCW.

23  
24 NEW SECTION. **Sec. 6.** Except for section 7 of this act, this act  
25 takes effect July 1, 2002.

26  
27 NEW SECTION. **Sec. 7.** If specific funding for the purposes of  
28 this act, referencing this act by bill or chapter number, is not  
29 provided by June 30, 2001, in the omnibus appropriations act, this act  
30 is null and void.

31

--- END ---