

Organizational Meeting

SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

January 15, 1973

3:00 p.m.

407 B Capitol

Members Present: Senator Ted Hallock
Senator Tom Hartung
Senator Norman Howard
Senator Anthony Meeker
Senator Stan Ouderkirk, Vice Chairman
Senator Mike Thorn, Chairman

Members Excused: Senator Fred Heard

Witnesses: Mr. Ben Allen, Assistant Director, State Department
of Agriculture

Chairman Thorne opened the meeting and announced that the purpose of the meeting was to adopt committee rules and to hear the request by Mr. Ben Allen of the Department of Agriculture for legislation which the Department of Agriculture wishes to propose during this session.

MOTION: Senator Ouderkirk moved that the proposed rules be adopted.

Chairman Thorne stated that it had also been brought to his attention that it would be well if all proposed amendments to bill would be in writing.

Senator Hallock and Ouderkirk felt this would be impossible and impractical because changes will be necessary as each bill is reviewed and discussed.

SECOND: Senator Hallock seconded the motion for adoption of the proposed rules.

The motion was put to a vote and CARRIED unanimously.
Senator Heard was excused.

Chairman Thorne asked the committee what areas they would like to see the committee deal with this session.

Senator Hallock expressed interest in three specific areas of concern: (1) the economic feasibility of encouraging slaughter houses in central or eastern Oregon (2) is there a way to enforce, statutorily, the listing or categorizing and publicizing of the toxicity of plant life to animals, relating more to pet animals than to beef or other marketable animals and (3) the toxicity of substances to animals, relating to products labeled poisonous since this is not enough.

Other members had no specific areas and felt they will come up as bills are considered by the committee.

Chairman Thorne informed the committee the Department of Natural Resources will be represented at the next committee meeting on Wednesday and the committee will begin hearings on bills that are presently in committee on January 22.

Mr. Ben Allen presented to each of the committee members literature and brochures on the Department of Agriculture as well as copies of the 13 bills the department is requesting the committee on Agriculture and Natural Resources to introduce this session. The bills have been drafted by the Assistant Attorney General who has been assigned to the Department, Mr. Hal Burke, and the department's administrative people. He briefly described the proposed bills as follows:

"F" It amends ORS 601. The reason for this proposed legislation is the department now licenses the rendering plants and the individual trucks are not licensed and they are unable to identify who they are with. This would insure that the dead animals that are being transported are protected.

Senator Hallock asked if the Department of Agriculture's staff feels there would be any problem with the Interstate Commerce involving the Public Utilities Commission on shipments from Idaho or Montana and also if there would be any problem concerning DMV because the word "license fee" is used.

"I" It amends ORS 633. Requires a person, or contract feeder, who manufactures animal feed using drugs to keep accurate drug records for at least one year. The present law does not cover those particular type of feeders and it does not cover custom mixed feeds.

Senator Hallock questioned if the term "drug" would be adequate.

"J" Amends ORS 570. Allows the department to establish control areas for protection of horticultural and agricultural products in the same manner as quarantine areas. Provides for the owners benefited to recompense the authority doing the work and creates lien for such amount. The department already has a lot of this authority but the way it is arranged within the chapter itself has caused some questions legally.

Chairman Thorne pointed out it might be well to inform the committee of the fiscal impact this legislation would have.

Mr. Allen informed the committee the information has been included in the Chairman's literature.

"N" This bill has to do with pesticides. The department now has control of registration and licensing of all pesticide work that is contained in ORS 573 and 634. This would abolish ORS 573 and put their authority in one area simply because of all the things now in regulation and control by the Federal Government.

Senator Hallock questioned if this proposed legislation would be passed if there would be any conflict with DEQ, the dangerous drug law, the State Board of Pharmacy or dangerous substance act.

Mr. Allen stated he was sure there would be no conflict in these areas. They are only concerned with the area of registration and regulation of the use of pesticides.

"O" This is new legislation and if enacted would adopt a model weed law. The bill would require the property owner to clean up the weed problem or the State would do it and charge the owner. The noxious weed problem is established by hearing.

"T" Provides for labeling of horticultural products and containers and authority to classify horticultural products as to grade, quality or condition.

"V" Amends ORS 600, repeals existing swine feeding law and in lieu of provides that no animal tissue may be fed to swine. It classifies whey as not garbage.

"W" Amends ORS 561. Increases the penalty for violation of quarantine orders. It raises the penalties for violation from \$50 to \$250 minimum fine and from \$500 to \$5,000 maximum.

Senator Howard questioned the use of increasing the penalties if they are never imposed by the judges.

"AA" Amends ORS 604. It simply reduces the time the department is required to hold impounded funds for brand inspection when there is a debate of ownership, etc. Where they are now required to hold it for 150 days, they are asking it be reduced to 60 days.

"CC" Amends ORS 596. It requires a written permit to import any livestock into the state. It would strengthen their present authority.

"DD" Amends ORS 561. It would give the Department of Agriculture the authority to recover their costs in seized or embargoed subject matter. It would pertain to almost any commodity.

"FF" Amends ORS 604. This exempts information obtained by livestock police officers in performance of their duties from being public records. Livestock police officers are afraid they may be subject to liable suits. As they stand now they are a matter of public record.

Senator Hallock asked Mr. Allen what relevance the department could give in terms of statutory powers and degree of confidentiality that might be germane to some problems the department has had that could have resulted in suits of liable.

"EE" Includes livestock police officers in the definition of "Police Officer" for the purpose of group life insurance. At present

they are not included in some types of group life insurance policies.

Mr. Allen stated the Department of Agriculture will be bringing one more bill regarding the department's meat inspection authority. Since they have given up the authority to the Federal government they are under some major revisions.

MOTION: Senator Hallock moved that the proposed legislation be introduced by the Committee on Agriculture and Natural Resources at the request of the State Department of Agriculture, namely Exhibits "F", "I", "J", "N", "O", "T", "V", "W", "AA", "CC", "DD", "FF" and "EE" as presented by Mr. Ben Allen.

SECOND: The motion was seconded, put to a vote and CARRIED unanimously. Senator Heard was excused.

Chairman Thorne asked if the Department of Agriculture would be introducing legislation dealing with cattle theft.


Mr. Allen stated the department is dealing with some brand bills and marks with cattle and sheep feeders.

There being no further business to come before the committee, Chairman Thorne adjourned the meeting at 3:40 p.m.

Respectfully submitted,



Senator Mike Thorne
Chairman



Annetta Mullins
Committee Clerk

Statement to House Agriculture and Natural Resources Committee
by George F. Babits, Vice President, Northwest Christmas Tree
Association pertaining to SB 106.

M. AG. & NAT. RES. COM. OREGON STATE ARCHIVES

SB 106 4
APRIL 13, 1973
EXHIBIT 4

Senate Bill 106 as revised and passed by the Senate on March 13th is generally acceptable to the membership of the Northwest Christmas Tree Association. We recognize the need for adequate control of pesticide applications, particularly those of a highly toxic nature. And we believe that the provisions of SB 106 as it is now written conforms to the provisions of Oregon's Forest Practices Act of 1972 with which we must comply.

There is however one point we would like to raise again as we did in our testimony during the Senate hearings on the bill. The bill establishes a Committee on Synthetic Chemicals in the Environment composed of 12 members. Nine of the members of the proposed committee are to be from various state agencies. One member is to come from the pesticide chemical industry and two are to represent the public at large.

We believe that the principal user of pesticides, the farmer, should be included in the committee membership. Specifically, we would recommend for your consideration the changing of the wording of sub paragraph "h" of paragraph 2 of Section 5 (line 25, page 6 of Engrossed SB 106) to read: "Two members shall represent the public at large with one of these to be a farmer pesticide user". While we believe the committee as it now stands will serve fairly and honorably it does have the appearance of a "stacked deck".

In conclusion, I would like to point out an apparent oversight or inconsistency in Section 29 page 30 line 7. We believe this wording should be changed to that used in Section 25 (page 24 lines 15 and 16), Section 29 (page 29, lines 33 and 34).

Thank you for the opportunity to appear before you.

SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

February 5, 1973

3:00 P. M.

407 B Capitol

Members Present: Senator Tom Hartung
 Senator Norman Howard
 Senator Anthony Meeker
 Senator Stan Ouderkirk, Vice Chairman
 Senator Mike Thorne, Chairman

Members Excused: Senator Ted Hallock
 Senator Fred Heard

Witnesses: Gene Kunkle, Department of Agriculture
 George Moose, Department of Agriculture
 Chuck Wilson, Legislative Counsel
 Mr. Bill Kosesan, Department of Agriculture

Chairman Thorne called the meeting to order.

SB 118

Gene Kunkle, Department of Agriculture, stated SB 118 merely changes the definition of policemen to include livestock police officers so that the Department may provide them with group life insurance. The cost to the Department for the nine livestock police officers would be \$124.20 a year. The insurance would not cost the officers anything.

In reply to a question from Senator Hartung, Mr. Kunkle stated there are no other employees in the Department of Agriculture which have this coverage. This protection is for policemen and firemen. It is for a job-connected death only.

In reply to a question from Chairman Thorne, Mr. Kunkle stated the cost is \$1.15 for each \$10,000 coverage per year and that is the present coverage for state policemen. There are certain other benefits that can be obtained if the officers want pay for it. He also replied that about 80 per cent of their time is devoted to police work and the other 20 per cent is to supervision of brand inspectors.

Chairman Thorne determined there was no further testimony on SB 118 and declared the public hearing closed.

SB 117

Don Jarvi, administrative assistant, asked Chuck Wilson should SB 117 be enacted would it take care of tansy ragwort and tussock moth and if it would have any relationship to SB 106 and SB 107.

George Moose, Department of Agriculture, stated the Department already has authority under ORS 570 to establish control areas. Generally the control areas the Department has established have to do with food pests. SB 117 would in effect give some authority to the district to carry out the enforcement activity, and if the Department is not reimbursed for the work done to assess the costs against the property.

Chuck Wilson stated he felt part of the difficulty is the part that talks about the formation authority for various kinds of control areas is not in the bill. The purposes for which the control areas can be formed are in ORS 570.405 which states "If after careful investigation it determines that the Department of Agriculture that such areas are necessary for the general protection of the horticultural, agricultural or forestry industries of the State from diseases, insects, animals or noxious weeds or for the eradication or exclusion from such areas of certain plants or their prudence, trees, diseases, animals, insects or noxious weeds that may be a menace to such areas and generally to horticultural and agricultural and forest industries". He felt this is broad enough to speak to anything, whether it is tussock moths or anything of that kind. This section is not included in SB 117.

Chuck Wilson stated Senator Meeker is correct in that the Director of the Department of Agriculture can establish control areas under ORS 570.405. He can, if SB 117 is enacted, send in an inspector and then assess the costs against the property.

Senator Meeker expressed concern that the Director of the Department of Agriculture, himself, can set up the areas, send an inspector out and cause the costs to be assessed against the property.

Senator Ouderkirk suggested the Committee not take action on SB 117 at this time and that SB 106, SB 107 and SB 117 be considered together.

Chairman Thorne requested Chuck Wilson to study the three bills to see what relation one has to the others and to report back to the Committee on Wednesday, February 7, his findings.

Senator Howard asked Mr. Moose if the Department of Agriculture has a book containing all the ORS sections pertaining to their Department.

Mr. Moose stated he was not aware that there is one but will check and report back to the Committee.

SB 116

Bill Kosesan, Department of Agriculture, in reply to a question from Senator Meeker, stated they have looked at the bill from the standpoint of the contract feeders who just throw drugs on top of the feed and the wording in SB 116 would not necessarily cover all of the users of animal feeds containing drugs. He stated he does not have any suggested language. He felt in order to arrive at Senator Meeker's concern, the word "user" or "feeder" would have to be used.

Senator Meeker felt SB 116 is much needed. We need to gain control, or at least keep records of the drugs that are put in animal feeds. There is no control over one who uses additives in SB 116. He stated if this is amendable to the Committee he would be interested in seeing an amendment to do this.

Chairman Thorne stated he has made a call and is awaiting some information from the Oregon Cattle Feeders Association and it might be well for the Committee to wait for their comments or to draft the amend-

SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

February 9, 1973

3:00 P.M.

407 B Capitol

Members Present: Senator Tom Hartung
Senator Norman Howard
Senator Anthony Meeker
Senator Stan Ouderkirk, Vice Chairman
Senator Mike Thorne, Chairman

Members Excused: Senator Ted Hallock
Senator Fred Heard

Witnesses: Ben Allen, Department of Agriculture
Bill Koesan, Department of Agriculture
Carroll Smithson, Izaak Walton League of America
W. H. Furrow, Hood River, Farmer
Karen Runkel, Oregon Environmental Council
Jack Spitzmeiser, Hood River, Farmer
Dave Nelson, Oregon Farm Bureau, Oregon Cattle-
men's Association, Oregon Wheat Growers League
Bill Gail, Hood River, Grower
Frank Stewart, Miller Products
B. J. Seymour
Ron Collins, Washington County Farmers

Chairman Thorne called the meeting to order.

Senator Meeker requested the Committee sponsor a bill to appropriate monies from the General Fund to the Department of Environmental Quality under Section 449.943 which is the field burning account. Section 449.943 provides for the expenditure of \$.50 per acre that is collected from the farmers when they apply for a permit to burn fields. That \$.50 is now allocated in 449.943. Under this provision the \$.50 would continue and this would be a match of the \$.50. It is to be used for research, purchase of equipment, smoke management.

MOTION: Senator Hartung moved that the Committee sponsor the bill as presented by Senator Meeker.

The motion was put to a vote and CARRIED. Senator Ouderkirk voted "NO". Senators Hallock and Heard were excused.

Senator Hartung requested the Committee to sponsor a Senate Joint Memorial to memorialize Congress regarding HR 2933 which deals with import standards for filberts. HR 2933 would establish quality standards for filberts. Oregon raises 95% of the filberts in the U.S. and they are having problems with imports outside where no standards are applied.

MOTION: Senator Meeker moved that the Committee sponsor the memorial as presented by Senator Hartung.

The motion was put to a vote and CARRIED unanimously. Senators Hallock and Heard were excused.

Ben Allen, Department of Agriculture, requested the Committee sponsor three bills at the request of the Department of Agriculture.

MOTION: Senator Howard moved that the Committee sponsor the three bills.

The motion was put to a vote and CARRIED unanimously. Senators Hallock and Heard were excused.

SB 106

Bill Kosesan, State Department of Agriculture, submitted proposed amendments to the Committee on SB 106. He stated SB 106 is a combination of present ORS Chapter 573 and 634. ORS 573 relates to the control application of pesticides and 634 relates to the registration of agricultural chemicals. This bill was developed after long discussions with a number of individuals from the pesticide industry, the application industry and the farm organizations. They have introduced it at this time following the adoption of the Federal Pesticide Control Act of last October by U. S. Congress. SB 106 is designed to bring Oregon's pesticide control up to standards to the needs of today and also to allow Oregon's pesticide control program to be compatible with the Federal requirements. The Federal Environmental Pesticide Control Act is rather far reaching. It is going to be the over-riding vehicle with respect to the control of pesticide in moving interstate commerce as well as the actual use within the state. SB 106 is compatible and very similar to the Federal Act but applicable to our situation here in Oregon. They have a few additional provisions in SB 106.

Section 2 is an introduction of the need for the control of pesticides.

Section 3 is the definition section. By and large that section is the same as in our present statutes 573 and 634 with the exceptions; they have included in SB 106 the definition for "farmer applicator". The reason they have included this definition and further control of the application of chemicals for farm use is that the Federal Pesticide Control Act will also require some control and certification of farmers who apply a certain classification of restricted-use or highly toxic substances even though they are applied to his own property, or on land under his control. This is a new provision.

On page 4, line 21, they have included "pesticide consultant". This is another new section. It refers to a person who offers or supplies technical advice, supervision, air or recommendations to the user of pesticides classified a restricted-use or highly toxic. This provision is in addition to that required in the Federal Act. California and Washington are now requiring some sort of licensing and examination to control the people who are making recommendations to persons who use the restricted-use or highly toxic pesticides.

On page 4, line 25, "Pesticide dealer" is a further addition in SB 106.

On page 6, Section 5 deals with the establishment of a committee on synthetic chemicals in the environment. This is a continuation of the previous provision in our present ORS 634. This committee which

has served very ably and capably since it was established is continued here. The committee advises the Department and other agencies in the state with respect to handling, transportation, control and use of synthetic chemicals, including pesticides. This section is largely the same as in 634 with the exception that the membership on the committee itself is slightly altered. One of the major changes in the membership is that three members shall represent the Natural Resources Agencies in the state, they were thinking of the State Forester, Fish and Game. Under 634 one member represented the State. Also under SB 106 two members shall represent the public at large and under the existing law two members represented the public at large.

Section 7 is largely the same as the existing law. On page 8 there is a change in respect to the fee that is assessed to registrants for each brand of pesticide sold or offered for sale in Oregon. In line 12 of page 8, the present fee is \$20 for three formulations registered and \$6 for each additional. SB 106 proposes the fees be set by regulation but not to exceed \$40 per brand.

Section 9 outlines provisions for experimental use of pesticides in the State.

Section 10 on page 10 relates to the labeling of pesticides. There is some question with respect to the labeling requirements. The new Federal act has provisions which in essence pre-empt state requirements in respect to labeling. The Federal Pesticide Control Act has a provision which states something to the effect that states may regulate the sale and use of pesticides within the state but shall not require labeling or packaging requirements in or addition to or different to those required by the Federal Act. He stated that they do not think the language in line 20 and 21 on page 10 of the bill are in conflict with the Federal law.

Section 11 deals with misbranding.

Section 12 deals with adulterated pesticides.

Section 13 deals with residue tolerances, pesticides that may remain in foods, food items, raw agricultural products, etc.

The requirements in Section 14 are very similar to those now required in chapter 573.

Section 15 relates to the licensing requirements of the pesticide operator, this is the owner of the pesticide business in the State. It sets out license fees. It sets forth the liability and insurance requirements for pesticide operators. Owners of businesses are required to maintain insurance coverage for protection to persons suffering damage from the misapplication of pesticides.

In referring to line 23 and the following language on page 16, he stated chapter 573 does not require the agencies to be licensed as operators but it requires their employees who are applying pesticides to pass an examination. A departure from 573 is shown on page 17, line 5 indicating that the fee for a public applicator or public trainee license shall be \$7.50. Previously all public applicators and

February 9, 1973

trainee licenses were issued at no cost. There are somewhere around 1,000 licenses which they are issuing at no cost to the agencies at this time. It reveals a tremendous amount of work in the Department of Agriculture, giving the examinations, correcting the examinations, conducting schools of training and are therefore suggesting a license fee of \$7.50.

Section 16 spells out the requirements for a pesticide applicator, that person who is going to be applying pesticides for hire. There is a slight increase in this fee.

Section 17 are the pesticide trainee requirements. Chapter 573, as proposed here has provisions whereby persons who interested in becoming licensed applicators may obtain a certificate as a trainee and can gain experience but must work with a licensed applicator.

Section 18 contains the requirements, the outline of the pesticide consultant. This is a new addition. It is a person who recommending and giving advice with respect to the application and use of highly toxic or restricted-use pesticides.

Section 19 spells out the pesticide dealer requirements. This is a new addition.

Section 20 deals with the farmer applicator. This is again a new section. Also with this Oregon's law would become compatible with the Federal law.

Section 21 relates to requiring records of persons who are applying pesticides.

Section 22 relates to the exemptions from operator and applicators' licenses.

Section 23 relates to the filing of reports when a person suspects or finds that they have suffered damages to their property or crops from the application of pesticides. Following the report the Department of Agriculture investigates. The reports are similar to those in chapter 573.

The provisions in the section "Protected and Restricted Areas" provides the means whereby groups or farmers or persons in the State may establish restricted areas whereby application of pesticides are prevented or restricted or are allowed to be made only at certain times for the protection of certain crops in the area. These provisions are very similar to those in the present law. There has been a slight modification to streamline the means by which the protected and restricted areas can be established.

In Section 32 the Department of Agriculture is authorized to promulgate regulations to implement the various provisions of the act.

Section 33 relates to the authority of the Department to carry out and enforce provisions in the act, the collecting of samples of pesticides, analyzing them, seizing and embargoing pesticides and the sale of pesticides and to revoke licenses under certain conditions following a

February 9, 1973

public hearing for those persons who are in violation of the provisions of the act. It permits the Department to cooperate with Federal agencies & with Oregon State University in carrying out the provisions of the act.

Section 36 provides for penalties.

Chairman Thorne stated the Committee would endeavor to have testimony from the EPA in regards to the Federal Act.

Carroll Smithson, Izaak Walton League of America, read prepared testimony and submitted copies to the Committee. This testimony is marked "Exhibit A" and is in the permanent committee files.

W. H. Furrow, a farmer from Hood River, stated the farmers are a little concerned why everybody got on the committee except farmers, there doesn't seem to be any provisions for farmers or experiment stations. They also feel the wording is a little vague in the section relating to control districts. He further stated they are not opposed to the bill as such but do have some concerns.

Karen Runkel, Oregon Environmental Council, read prepared testimony from the Oregon Environmental Council Wildlife Committee as well as her own testimony. Ms. Runkel's testimony is marked "Exhibit C" and the OEC Wildlife Committee's testimony is marked "Exhibit B" in the permanent committee files. These exhibits contain proposed amendments.

At the request of Senator Meeker, Bill Koesan, Department of Agriculture, responded to the question from Karen Runkel, as to how the Federal Orders relate to SB 106 and the use of 1080.

Bill Koesan stated the President issued an executive order last year cancelling all use of toxicants for control of predators on Federal land. William Ruckelshaus of the Environmental Protection Agency followed up shortly with a order cancelling the interstate movement of certain four pesticides or toxicants for predatory animal control. The Order still permits certain of these for rodent control. He felt some provisions should be retained in Oregon's law to permit the use of toxicants should they ever be cleared by the Federal agency. If there is no provision, then we cannot at any time meet the needs of control such as rabies. At the present time it is virtually impossible for anyone to use toxicants for control of predators. He stated the Federal Order takes precedence.

Jack Spitzmeiser, representing the tree fruit farmers in the Hood River valley, stated they are concerned over the selective use of these materials and the safeguards since they are the applicators. In addition they are concerned over their cropping and being able to have the necessary chemicals to achieve their end which is to provide a living. The chemicals are very important to them and the way the law reads is very important. They are concerned with the membership of the committee which is a consultation committee to the Department of Agriculture. As SB 106 is written it does not provide them with the type of security they would like to have as principal users of the

February 9, 1973

materials. In the listing of those members on the board it does not spell out specifically the type of personnel that they would like to see on the board. They would like to have on the board three licensed applicators, one ground applicator, 1 aerial applicator and 1 structural applicator. Also 1 entomologist in public service, 1 toxicologist in public service, 1 plant pathologist in public service, 1 member from the agricultural chemical industry, 1 member from the food processing industry, 2 members who are producers of agricultural crops. He stated as a farmer he will hire people to help him during the year and asked if the farm worker who applies the spray with a ground machine but who is under the direct supervision of himself, as the operator-manager of the farm, have to have an examination and a license.

Bill Koesan stated a person who is working under the direct supervision of a licensed applicator is exempt.

In reply to another question from Mr. Spitzmeiser, Bill Koesan stated SB 106 does not contain any provision for disposing of pesticide containers because that authority was given to the Environmental Protection Agency in the 1971 Session of the Legislature. The Advisory Committee on Synthetic Chemicals can however serve to advise DEQ with respect to procedures for the disposal.

Dave Nelson representing the Oregon Farm Bureau Federation, the Oregon Cattlemen's Association and the Oregon Wheat Growers League, stated the organizations he is representing did support the enactment of the Federal Environmental Pesticide Control Act and in a general broad way do support the intent of SB 106 and the major provisions therein. He stated that while the Federal Act separates pesticides into two categories, those restricted for general use and those for restricted use. SB 106 defines pesticides in three areas, those that are non-classified, those that are highly toxic and those that are defined as restricted-use pesticides. He suggested that a paralleling classification be utilized between the Federal Act and SB 106 so that there is uniformity between the two. This would be for better understanding of what actually is where. He stated he would concur with Mr. Furrow and Mr. Speitzmeiser as to the inclusion of two members to represent the agricultural users in the community. He felt perhaps the section relating to the make up of the committee could be broadened to comply with Section 6 of the bill. In referring to Page 12 "Commercial Application" this for the first time includes the farmer or rancher as a farmer applicator to be licensed by the Department of Agriculture within the State. He felt nobody knows the number of farmers that will be in this category, but it would probably be 8,000 to 10,000. They feel that the issuance of a license merely for the sake of issuing a license does nothing to protect the environment or to insure the proper application at the time of taking the examination for the license. He felt that perhaps all users of pesticides should be licensed and that license should be renewed by re-examination annually. He stated they would support in preference over a license a system of permit as the State of Washington is considering where a farmer would secure a permit at the point of purchasing the chemical, issued by the Department of Agriculture through the outlet stating the permit for the amount, the number of acres, the use, the person has read and understands the label and how it applies to the utilization of his crops with the proper application to that crop. He questioned the language used in Section 15,

Subsection 12, page 16 and Section 22, subsection 3, page 22 and felt the agencies and employees as stated under Section 22 are exempt from the securing of the license for the use of any pesticide. He stated that from the farmers' point of view \$7.50 may or may not be a particularly large amount of money and suggested that the fee could be established under the hearing process by rules and regulations. He also pointed out that Section 34, page 36, line 25 states "shall" and subsection 7 states "Operate pesticide application apparatus,--" He stated the term "apparatus" is not defined in the bill and felt it could be pretty broadly interpreted to include a can of Raid or anything else, and they do object to that part. He stated the Oregon Farm Bureau, the Oregon Cattlemen's Association and the Oregon Wheat League support the up-grading of the Oregon law to comply and to establish the Department of Agriculture or an agency within the State to administer the provisions of the Federal Environmental Pesticide Control Act. They have had a very good working relationship with the Department and they support them in the administration of these provisions with certain corrections. They would prefer a permit system as opposed to a license system. They feel it is more practical and more applicable to agriculture in the State of Oregon.

In reply to Senator Meeker Mr. Nelson stated he would be happy to bring proposed amendments to the Committee to establish a permit system.

Bill Gail, farmer from Hood River asked if the Federal Act designates that the farmer applicator be licensed and asked if that is why it is in SB 106. He stated he would prefer the permit system.

Chairman Thorne advised those present the information is not available at this time but the Committee will have testimony on the Federal Act.

B. J. Seymour, Department of Environmental Quality, stated their only concern with SB 106 is the possibility that this legislation being more recent than the legislation which the Department of Environmental Quality jurisdiction over water pollution and air pollution, they would like some assurance that nothing in SB 106 would supersede existing law permits them to regulate pollutants in the air or water. She stated it is her feeling that the Committee does not expect to cancel out their responsibilities but would like for that to be explicit. If such a provision could be added to SB 106 it would take care of their concerns.

Bill Gail, Hood River farmer, expressed concern for the make up of the committee as outlined in SB 106, as well as the designations and interpretations of what classes of toxic material farmers will be able to use. He concurred with Mr. Speitzmeiser regarding the make up of the type of members on the committee. He felt the fees set forth in the bill should be lower since the costs are passed on to the farmer. He stated he felt the users of the pesticides should be tested.

Frank Stewart stated the existing committee is an advisory committee appointed by the Governor and advises the Department of Agriculture on matters relating to pesticides. It is now a new thing. In response to Senator Meeker he stated he would agree to two farmers

being on the committee and felt the committee should have the proper representation.

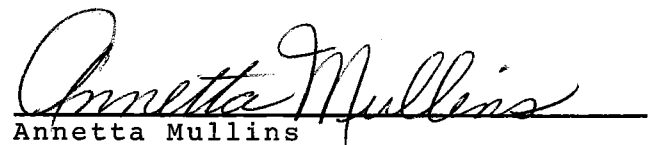
Chairman Thorne announced that due to the lack of time further testimony will not be heard at this time and requested those who were signed up to testify to return on Monday, Feb. 12, to complete the hearing on SB 106.

Ronald Collins, a consulting entomologist from Hillsboro, Oregon, stated he would be unable to return on Monday and left with the Committee written testimony indicating he is in general agreement with most provisions of SB 106. This written testimony contains proposed amendments. This testimony is marked "Exhibit D" in the permanent committee files.

Chairman Thorne declared the meeting adjourned at 4:55 p.m.

Respectfully submitted,


Senator Mike Thorne
Chairman


Annetta Mullins
Committee Clerk

Tape 3, Side 2, Reading 365 - 599
Tape 4, Side 1, Reading 0 - 65

Senator Hallock stated he is concerned about the recitation by the Oregon Environmental Council referring to the March 9 Order from Runkelhaus. He stated he wrote to the President a week ago for a copy of the Federal Order. He asked how they could possibly fly in the face of the EPA statement let along the Executive Order by passing SB 106.

Irvin Mann, Director of the Department of Agriculture, referred to subsection 7 of Section 7, page 9, and stated it forbids the use of 1080 with three exceptions. He stated he would assure Senator Hallock that the State Department of Agriculture would not license anyone under this act in the teeth of Ruckelhaus's order. He stated they would recognize the superior nature of the Federal Order.

Senator Hallock asked Mr. Mann if he would concur that there is really no reason in the act to give latitude under any circumstances to license 1080, strychnine and cyanide.

Mr. Mann stated he wouldn't concur on that until the Committee has had a chance to hear from the livestock industry some of the deformations that are being wrecked upon the industry by the coyote population. He felt the Committee should hear that before they make up their minds. He also felt the Committee should study the practical impossibility of a predator that has died as a result of congesting 1080 of any bird or any kind of wildlife that feeds upon him from suffering the same effect. He stated that as far as their Plant Division is concerned they are not going to fly in the teeth of the EPA.

Senator Hallock stated that SB ~~106~~ is then totally unnecessary because the Order goes on, it is very specific for use against mammalian predators "to be cancelled and suspended immediately". He is categorically specific.

Mr. Mann stated the Order is not specific about rodent control. He stated if you are not careful the city of Portland could be overrun by rats. He stated he felt it would be a mistake to get into an inflexible position as far as the complexity of the predator, the coyote is concerned. He stated he feels the Committee will find this is a much greater problem than any of us at this point realize.

Senator Hallock asked why put the language in the law that we are not going to use and which the EPA and the President of the United States says we can't use.

Mr. Mann stated the EPA might change its mind and in that case we would want to have some control over the application. He stated he feels this is an important and would hate to see it bogged down because of this problem.

Senator Meeker stated he feels there are two parts in SB ~~106~~ that make it politically impalatable. One of them is the 1080 section. According to the testimony of last Friday this section is exactly the same as in the present law and asked for clarification from the Department of Agriculture. He stated it would solve a large problem to take the section on 1080 out of the bill and leave it the same as it is.

Don Jarvi stated the entire chapter will be deleted by SB 188. In Section 7, subsection 8, lines 23 and 24, this is in addition to the present law, otherwise it is the same.

Wes Lydell, President of the Oregon Pest Control Operators Association. This is the structural pest control applicators in the State. They have gone over this proposed bill as an organization and have basically no disagreements with it. He asked that 1080 not be taken away from the applicators. In the last four years he has not had to use 1080 but does not want it taken away from them because he has had occasion to kill as many as 3,500 rats in one evening of baiting. He didn't feel there will be any problems with it as long as it is being administered by the Department of Agriculture under the current arrangements. In the bill the word "consultant" comes up on page 19, Section 18 and in their opinion no licensed applicator can commence work or express opinion to the absence or presence of wood destroying organisms in a structure without first making an inspection. This brings up the point they feel individuals making structural pest control inspections should be licensed in some classification qualifying him as an inspector. Presently in the State people unlicensed by the Department of Agriculture can or are making inspections and they feel a need for this correction. He asked if this could be worked into the consultant feature.

Senator Ouderkirk requested Mr. Lydell to prepare amendments to that effect.

Mr. Lydell also asked if they as an industry could be recognized somewhere along the line in the advisory capacity.

Frank B. Stewart, The Charles H. Lilly Co., stated that basically as a pesticide manufacturer and seller and registrant they are basically in support of SB 106. He submitted to the Committee written testimony containing proposed amendments to SB 106. This testimony is marked "Exhibit A" in the permanent committee files. He further stated he has been informed there will be Federal funding to the State Department of Agriculture. He feels this is necessary because it is a burden on the Department of Agriculture in the State. He felt that perhaps the applicators should be recognized on the Board as well as the chemical industry.

William Owen, Legislative Chairman for the Oregon Pesticide Applicators Association stated in principal they favor SB 106 since it does represent certain improvements on the existing law. They do have amendments to the bill and will submit them to the Committee tomorrow. They are heartened to see the bill call for a "farmer applicator" and feel this is a definite step in the right direction. Unfortunately it only calls for him to be licensed when he is using "highly restricted" pesticides. He felt this is fine in principle but they maintain, and have for many years, that anyone who dispenses economic poisons as a means of making his livelihood, and the farmer does this for himself and if the law provides he may do it for others on an occasional basis without licensing. They feel that anyone who does this in some way come under the Department and they feel the best way is some kind of examination to determine the man's basic knowledge of these chemicals. He did not feel it would have to be a license but at least

the passing of a minimal examination because a great deal of the problems with pesticides today come from, not application so much, as disposal of containers and misapplication through ignorance of the product. He stated they would strongly support this bill to say if a farmer applies pesticides on his own property or the property of others, either as a favor or for a fee, he should be required to have a license. He felt this could be handled on a per-pound basis per year of usage. The committee which is included in SB 118 exists now within the pesticide law. It is broadly called a Committee on synthetic chemicals in the Environment and in this way concerns itself with chemicals, many of them not agricultural or pesticides but at the same time the very existence of this committee is precipitated by pesticide controversy. Since that is the case they strongly feel that a professional operator in the State as defined by the law ought to sit on the committee. He stated one farmer is on the committee as a result of the "public at large" provisions. They have been asked to speak to the committee on many occasions and have input into the Committee on a subcommittee for application. He felt it was created mostly out of recognition by the parent committee of a need for such a thing. He stated concern regarding the provisions for costs for renewal of a license and stated they feel the fee is too low and they will cover this in their forthcoming letter to the Committee. He also stated there should be a waiting period between the times the exams are taken, at least 30 days.

Senator Meeker stated it has been suggested to the Committee that a farmer be added to the committee on synthetic chemicals and today the committee has heard two additional groups who want to be on the list, yet the point is made that the advisory committee is already providing information to the committee and asked Mr. Owen how many people would be on the committee.

Mr. Owen stated that because the number asked for would enlarge the committee would not necessarily mean the basic formation is sound, they submit that it is now. They feel the two members of the public at large is inflated by one. Perhaps three members of the natural resources agencies could easily be inflated by one. You could easily make these accommodations to give the committee more real input and by changing the wording to accommodate and he realizes this would be stepping on toes but it is a committee dealing with chiefly, but not entirely, the use of chemicals and pesticides in the State. To provide the kind of input needed by the Director we should not have to depend on subcommittee input.

Jack Holland, member of the Board of Directors of the Western Agricultural Chemicals Association which is a trade association of the western states and Legislative Chairman for the northwest section of the association and a pesticide salesman for the American Cyanamid Co. stated they support the purpose and the intent of SB 106. He stated they are in agreement with Frank Stewart's suggestions for some changes as he has submitted to the Committee. On page 3, line 11, he felt it should be more clearly defined such as "highly toxic" should be pesticides which have an LD 50 figure of 50 milligrams per kilo or less. This is a technical term many states use in defining highly toxic. Page 3, lines 26 and 27 has no provisions for other disease organisms such as bacteria and they feel this should be included in addition to fungus. Lines 30, 31 and 32 should be changed to include mites, ticks, slugs, snails and symphylans because they are not insects. Page 4, lines 21 through 24 does not include provisions for licensing for all pesticides

and felt it should but there should be provisions for excluding the clerk in the garden stores from having to be licensed. He felt it is important that the farmers be on the Committee. He referred page 8, lines 10 through 13 and stated he would agree with Mr. Stewart's testimony regarding that. He felt that lines 19 through 22 of page 20 would exempt county agents, as an example, from the necessity of being licensed and examined as pesticide consultants. They opposed this provision in the original draft of the Washington law and now the county agents do have to pass an exam and be licensed to recommend the use of pesticides. The entomologists at Oregon State have agreed that county agents and other governmental employees should not be exempt. He felt consideration should also be given to examining the pesticide dealer under Section 19 of SB 106. It would not have to be every person in the dealership would have to be licensed but one person should be licensed. On page 21, lines 6, 7 and 8, as far as the farmer applicator license is concerned, the federal bill stipulates that this would be for application only of the restricted-use pesticide and they would agree to that. If the farmer is applying to other than his own property for hire, then he is then a pest control applicator and would be covered under that provision of the bill.

Mr. Owen agreed to submit the proposed changes in writing to the Committee.

Dr. Wesgarth, Director of Laboratories, Department of Environmental Quality stated they are generally in favor of SB 106. On page 7 regarding the committee on synthetic chemicals, he stated he believes the words "synthetic chemicals" needs definition because it is not defined in the bill. Also on page 7, section 6, article 3, he would like to see it changed from the committee "may" advise to "shall" advise because the committee deals with more than just pesticides and it deals with other departments within the State. These departments need advice on some of the chemicals.

Senator Meeker asked that if all the groups which have requested that they be on the Committee were appointed what would this do to the advice it gives to other agencies.

Dr. Wesgarth stated the committee has been able to give advice on pesticides without any problems and those pesticides are similar to other chemicals. He stated he has no quarrel with the suggested make-up of the committee

Chairman Thorne requested Dr. Wesgarth to prepare for the Committee's consideration a definition of "synthetic chemicals".

Royal Tarter, Meeker Fertilizer Co., Salem, stated they favor the bill generally and most of the dealers in their area do. They feel it is something that is needed and will tie them into the Federal laws which they have to follow and can see no conflicts. He stated he feels the changes recommended by Mr. Owen are very well put.

Chairman Thorne declared there was no further testimony on SB 106 and closed the public hearing.

SUBCOMMITTEE
SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

March 1, 1973

3:00 P.M.

407 B Capitol

Members Present: Senator Tom Hartung
Senator Anthony Meeker, Chairman

Members Excused: Senator Norman Howard

Witnesses: Bill Koesan, Department of Agriculture
Robert A. Gresbrink, Health Division
Jack Holland, Western Agricultural Chemical Assoc.
Jim Corlett, Oregon Forest Protection Association
Royal Tarter, Meeker Fertilizer Co.
George Babits, Northwest Christmas Tree Association

Chairman Meeker called the meeting to order for purposes of considering proposed amendments and further testimony on SB 106.

Bill Koesan, Department of Agriculture, presented to the Committee copies of proposed amendments to correct errors and omissions in the drafting of the bill. These amendments were marked "A" of March 1.

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated 3/1/73 and marked "A" be adopted.

There were no objections and Chairman Meeker declared the motion CARRIED.

Bill Koesan, Department of Agriculture, presented further proposed amendments to SB 106 and explained these amendments are needed to continue the existing protected area in Umatilla County. The bill as introduced would reduce the outer boundary and these amendments would provide protection to this. These were marked "B" and dated 3/1/73.

In reply to a question from Chairman Meeker, Mr. Koesan stated the amendment on page 22, line 25 "Except as otherwise provided in Section 15 of this 1973 Act:" provides for the licensing of governmental agency employees who apply pesticides. This would apply to county agents if they are applying pesticides, but they do not normally apply pesticides. The county agents who make recommendations concerning the use of restricted-use pesticides are covered in the section on consultants.

In reply to a question from Senator Hartung, Mr. Koesan stated the present law provides for a protected area outlining those particular crops that need to be protected. The "restricted area" takes in the area surrounding the protected area whereby certain chemicals are restricted from use during certain periods of the year. These areas are established through petitions or public hearing the same as other areas are established.

Senator Hartung asked what the difference would be in the meanings of the words "machinery" and "power machinery" and pointed out neither are in the definitions of the bill.

Mr. Kosesan stated there may be a need to have a distinction between "power driven equipment" and "equipment".

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated 3/1/73 and marked "B" be adopted, as corrected.

There were no objections and Chairman Meeker declared the motion CARRIED.

Mr. Kosesan presented further amendments to SB 106. These were dated 3/1/73 and marked "C". He stated these amendments speak to some of the concerns that have been expressed by persons in previous testimony and also clarify some of the questions the Department has had.

In reply to Chairman Meeker's request Mr. Kosesan stated the purpose of the amendment on page 3, line 10 "or timber" is that under the present definition in the bill speaks to "farmer applicator" only who applies or uses pesticides classified as restricted-use or highly toxic for the purpose of producing agricultural commodities. Concern has been expressed that many small timber lot owners also may apply restricted-use pesticide. They need to be in a position to use these chemicals without the necessity of hiring a commercial applicator to do it. This corrects that.

Mr. Kosesan stated the proposed amendment on page 9 to delete lines 4 through 16 remove the reference to 1080 in SB 106. The control of the use of 1080 and of other highly-toxic chemicals for predator and rodent control lies in the hands of the Federal Government.

Chairman Meeker pointed out that this amendment would remove from the present law the discussion of 1080. He then asked what would be the controlling factor over 1080.

Mr. Kosesan stated the bill and our existing law provide for authority for the Department of Agriculture to control the use and application, the classification of highly-toxic chemicals. That control is continued in Section 32 of SB 106. In addition, the control of 1080 and other of these highly toxic chemicals for predator control is now governed by the Federal Government through the Executive Order of the President and the administrative orders of the Administrator of Environmental Protection Agency.

Senator Meeker asked if, on page 33, line 8, the word "may" were changed to "shall" wouldn't then the Federal regulations over 1080 apply to the State of Oregon. Then the Department of Agriculture would have to take into consideration laws and regulations of the Federal Government which then would in essence take care of the 1080 question by its deletion in SB 106.

MOTION: Senator Hartung moved that the proposed amendments "C" of 3/1/73 to SB 106 include the amendment on page 33 of the printed bill,

line 8, after "department" delete "may" and insert "shall".

There were no objections and Chairman Meeker declared the motion CARRIED.

Mr. Kosesan stated they are proposing that any fees that apply to the farmer or private applicator be deleted. SB 106 provides does have a fee for the private applicator or farmer applicator.

Chairman Meeker asked if the "certification" applies here.

Mr. Kosesan stated SB 106 speaks to the farmer applicator license. After further consideration and in light of some testimony that has been presented, it is their suggestion that rather than call for licensing of the farmer applicator who uses restricted-use pesticides that we conform more to the provisions of the Federal Environmental Pesticide Act and move toward a certification procedure deleting any reference to fees but giving the State the authority to adjust to the standards that are established pursuant to the Federal Act which does call for certification of the private applicator.

Chairman Meeker asked Mr. Kosesan to explain the impact of the proposed amendment on page 21, "Section 20, subsection (2)" No fee shall be assessed for a private applicator's certificate, or renewal thereof." covers the certificate provision which replaces the license provision as explained in previous amendments.

Mr. Kosesan stated that the proposed amendment on page 33 to delete lines 15 through 20 deletes wording with respect to 1080 and other highly toxic pesticides for predator and rodent control.

Mr. Kosesan agreed that the proposed amendment on page 34, line 13 should read: after "consultants" delete the comma and insert "or" and in the same line delete "or farmer applicator".

Mr. Ben Allen pointed out that on page 34, line 4, after "and" delete "farmer" and "insert "private" is needed.

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated 3/1/73 and marked "C" include an amendments that on page 34, line 4, the word "farmer" be deleted and the word "private" be inserted.

There were no objections and Chairman Meeker declared the motion CARRIED.

Frank Stewart, Charles H. Lily Company, questioned the "may" of the proposed amendments on page 34, after line 27, subsection 15.

Chairman Meeker stated his initial reaction to that would be that the Department, in providing a certification, may want to change that from time to time within the perimeters as directed by the Federal and may perhaps give them a little more flexibility here. The word "shall" in the other section of SB 106 instructs them to follow the regulations of the Federal in regards to what is toxic and things of

of that nature, whereas in the certification procedures "may" probably will allow more flexibility.

Mr. Ben Allen stated he thinks it would be desirable to leave it as "may".

Mr. Koesan stated he would not object to changing it to "shall".

Senator Hartung felt it should be left as "may" because it does give more flexibility to the Department.

Mr. Jim Corlett, Oregon Forest Protection Association, stated he feels the word "forest crops" would be a better word than "timber" as proposed on page 38, line 1, because "timber" is somewhat restrictive to logs and nurseries and miscellaneous forest products. "Forest crops" would be a broader term.

Mr. Koesan stated their attorney checked the definition of "timber" and it actually seemed to fit the bill better, it includes timber products and forest crops.

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated 3/1/73 and marked "C" be adopted as corrected by the Committee.

There were no objections and Chairman Meeker declared the motion CARRIED.

In reply to a question from Senator Hartung, Mr. Koesan stated interest came from several groups in preparing the proposed amendments.

Senator Hartung asked if the Department of Agriculture would favor including a person active in agriculture on the committee.

Mr. Allen stated they do not propose this, they would prefer it stay as it is.

Chairman Meeker asked Mr. Koesan to respond to the question of what effect the certification procedures would have on a farmer whether he be a grain farmer or whatever, in applying chemicals to his own land.

Mr. Koesan stated the purpose of the amendments is to provide for the certification by some means of the farmer who applies any of the pesticides classified as highly toxic or restricted-use to his own crops. He agreed there is no requirement for certification or license to apply a non-toxic or non-restricted-use chemical. He further agreed the commercial applicator must be licensed regardless of the type of chemical that he applies.

Robert Gresbring, Director, Vector Control Program, Oregon State Health Division, submitted to the committee proposed amendments to SB 106. This proposed amendment was dated 3/1/73 and marked "D". He stated this is a housekeeping amendment and they have no objections to the provisions of SB 106. They wish to propose that SB 106 be amended on page 6, line 15, after "the" delete "State Board of Health"

March 1, 1973

and insert in lieu thereof, "Health Division, Department of Human Resources". This makes it consistent with Chapter 650 of the 1971 law.

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated 3/1/73 and marked "D" be adopted.

There were no objections and Chairman Meeker declared the motion CARRIED.

Jack Holland, Western Agricultural Chemical Association stated they have no objections, and in fact they support the amendments proposed by the State Department of Agriculture. They do feel that on the Committee on Synthetic Chemicals in the Environment, it should be designated that one of the members be a farmer.

Senator Hartung asked Mr. Holland if he would suggest then that the number of public-at-large members be reduced by one, or add another person to the committee.

Mr. Holland stated they have no strong feelings in this regard, it might be appropriate to reduce the number from the public at large and insert a farmer.

Jim Corlett, Oregon Forest Protection Association, stated they support SB 106 and have some suggestions for additional amendments. They do not have the amendments in writing for the Committee but will submit them when they are prepared. Their proposed amendments are: on page 6, line 13, after "(b) delete the language on lines 13 and 14 and spell out the agencies that should be represented as natural resource agencies. There are a number of agencies that might be considered natural resource agencies. They suggest the following language be inserted "one member shall be appointed from the State Forestry Department, one member from the State Game Commission and one member from the State Fish Commission." This is on the assumption that these are the agencies that might most likely be concerned about this.

Chairman Meeker asked Mr. Allen what natural resource agencies are presently on the committee.

Mr. Allen stated one is from Geology and one from Forestry but could not recall the other agency represented.

Jim Corlett continued with their proposed amendments: on page 6, line 23, they feel in view of the gravity of the decisions that are going to have to be made, they would like to see this spelled out and they propose that in sub paragraph "(h)" delete the existing language and substitute "1 member shall represent agricultural interests and 1 member shall represent private forest land owners". On page 23, line 5, he questioned the intent of "farmer" and asked if it was meant to limit this to farmers, or if the words "or land owner should be inserted after "farmer".

Mr. Koesan stated there really is no reason for limiting it to farmers only.

Mr. Corlett stated then they would propose the same wording in line 7 of page 23. Also on page 25, line 15, after the first comma, delete "or the owners of more than" and insert "representing at least". Their purpose here is in view of the fact a protected area can be formed and then a restricted area up to 10, or if we continue it, up to 30 air miles well back into the forest area, they feel that in the original initial formation that 70 per cent of the land owners or 25 or more land owners or as they suggest, "or owners of more than" 70 per cent of the acres of land should have a voice in whether the protected should be formed or not.

Chairman Meeker requested Mr. Corlett to have his proposed amendments prepared and give them to Mr. Allen and Mr. Koesan because the amendments change existing situation.

Royal Tarter, Meeker Fertilizer Company, stated they are fully in favor of the proposed amendments today and feels most of the dealers in the industry would be. He felt if the Synthetic Chemical Committee is expanded for one then it would have to be expanded for several. There may be other ways of handling this through subcommittees and would not have to change the make-up of the committee.

Mr. George Babits, Vice President of the Northwest Christmas Tree Association, stated their association has about 400 members in Oregon and Washington and about 250 of them are in Oregon. He stated he was violently opposed to the licensing and has a question in regard to the certification. He would hope that in the formulation of the certification procedure it would be something simple and take into account that many of them have been applying chemicals in their christmas tree plantations for a number of years and they are able to read labels. They would support the view that the two members to represent the public at large should specify that at least one of them come from an agricultural background, whether it is forestry or not, it makes no difference. He pointed out that in Section 22, page 23, paragraph 4, a land owner has a right to apply a pesticide to his neighbor's land without any certification. He pointed out the railroads seem to get special exception and felt that is somewhat difficult to follow.

In reply to Chairman Meeker's question, Mr. Koesan stated the language in Section 22 is largely the same as in existing law. A farmer who applies on an occasional basis for his neighbor, providing the neighbor supplies the chemical, he is exempt from licensing requirements. This particular section continues that provided the farmer does not use highly toxic or restricted-use pesticides. If he uses general use pesticides he is not required to be certified or licensed but the minute he begins to more than occasional work, or advertise, or loan himself out as a commercial applicator then he is considered a commercial applicator and is subject to the provisions of the Act.

Mr. Babits stated he would have no quarrel with that but there may be with what is highly toxic.

Mr. Koesan stated the term "restricted-use" follows the terminology that is used in the Federal Act. Pesticides may be restricted for some hazard, such as to the environment or to the user or persons

March 1, 1973

following in treated areas, etc. The classification of pesticides which might fall into the restricted-use category as opposed to those for general use is of concern to most people involved in the use of application of pesticides today. On the Federal level this has not been determined. At this point the Federal Agencies are developing criteria to determine which pesticide shall be classified as general use or restricted use. He added the Department of Agriculture has a list of pesticides classified as highly-toxic, and this list is changed through public hearing procedures.

In reference to the protected and restricted areas Mr. Babits stated the word "or" on page 25, line 15 needs some consideration. It is conceivable that the way SB 106 is written and the way the Act now stands, 25 of the new people coming into an area could set themselves up within the school district or within the fire protection district as a boundary, petition the Department of Agriculture and present their case and win out and they could own 75 acres. It is the strawberry, grass seed or Christmas tree farmers who own a majority of the land with a minority of the say and they covered by the law. They would subscribe to some modification that is proposed, to take the word "or" out and make it some kind of a number that has to do with the majority of the land owners.

Chairman Meeker requested Mr. Koesan, Mr. Allen and Mr. Collett to take this suggestion into consideration and present them to the Committee in the forthcoming amendments.

Mr. Babits stated that they as the Northwest Christmas Tree Association in general subscribe to the licensing of commercial pesticide applicators. They don't see any purpose in licensing or certifying the farmer applicators. He pointed out they are governed by the Forest Practices Act of 1972 where they have to file a notification with the State Forester, state what they are going to apply, how they are going to apply it and maintain records of the date, time, wind velocity, temperature and how it was applied and keep these records for three years. If SB 106 goes through the way it is they are going to have to respond to two sets of regulations and he would hope those two sets would be compatible.

Chairman Meeker pointed out to Mr. Allen that when the Department promulgates the rules they should take into consideration the Forest Practices Act.

Mr. Babits submitted to the Committee prepared testimony. This testimony is marked "Exhibit E" and has been made a part of the permanent Committee files.

Heil Scheidel, Northwest Christmas Tree Association, stated the amendments that have been suggested are in line with his reasoning. He is a private applicator and has a license to apply chemicals. He is a tree farmer and appreciates what chemicals have done for them. He also realizes there are hazards involved. As a member of the Northwest Christmas Tree Association he would support Mr. Babits statement and would generally concur with the bill. He felt they could all go along with it as long as they can live with it.

Chairman Meeker determined there was no further testimony and announced that those concerned would be advised of the second hearing on this issue and would hope everyone will have had time to look at the amendments and make further suggestions if there are any.


In reply to a question from Mr. Frank Stewart, Senator Meeker stated the previously proposed amendments will also taken into consideration at the next hearing.

Chairman Meeker declared the meeting adjourned at 3:20 p.m.

Respectfully submitted,



Senator Anthony Meeker
Chairman



Annetta Mullins
Committee Clerk

SUBCOMMITTEE
SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

March 8, 1973

1:10 P.M.

407 B Capitol

Members Present: Senator Tom Hartung
Senator Anthony Meeker

Members Excused: Senator Norman Howard

Witnesses: Jim Corlett, Oregon Forest Protection Association
Bill Kosesan, Department of Agriculture
Ben Allen, Department of Agriculture

Chairman Meeker called the meeting to order for purposes of considering further amendments and consideration of SB 106 as previously amended by the Subcommittee.

Jim Corlett submitted to the Committee proposed amendments to SB 106 and stated they have been discussed with the Department of Agriculture and they approve of them. These proposed amendments were marked "A" of 3/8/73 and have been made a part of the permanent committee files. He stated they have researched the term "forest crops" as opposed to "timber" and feel "forest crops" would be more suitable for the bill. During the last meeting the Department of Agriculture had suggested "timber" but they now agree with "forest crops". He stated they are proposing the amendment on page 6, line 13, because the present language says "natural resource agencies" in the state and this is their suggestion as to what agencies would be.

Senator Hartung asked Mr. Corlett what his reaction would be to having a farmer represented on the Synthetic Chemicals Committee.

Mr. Corlett stated they had at first thought this would be a good thing but after discussing it with the Department of Agriculture, they have convinced him that what they are trying to get at is have an impartial group.

Mr. Corlett stated the reason for their amendments on page 23, line 5 is that farmers who are applying chemicals that are not highly toxic is taken care of but there are many forest landowners who use pesticides so they propose this be added.

The proposed amendment on page 25, line 15 relates to the committee that petitions for establishing a pesticide control district, protected area or restricted area and it relates to the persons who may petition. Testimony at the last meeting and relating to the urban growth expansion into the rural areas, there are many areas now where there are many homes and they feel that only 25 persons to initiate

this problem might impact a very large area without being truly representative of the area and the needs there. With this amendment there would be no possibility of a small group of persons who just happen to reside there to initiate an area.

The proposed amendment on page 27, line 33, would take care of a drafting error. The language in the bill does not cover voting.

Their purpose for the proposed addition on page 30, following line 25, is when a protected area is established under existing law and under the proposed SB 106 an additional area called a restricted area may be added up to a distance of 10 airline miles outside of the boundary of the protected area. This would encompass a very large additional area depending on the size of the protected area. They feel it would be helpful to have some representation on the area committee.

MOTION: Senator Hartung moved that the proposed amendments to SB 106 dated March 8, presented by Mr. Corlett and marked "A" be adopted.

There were no objections and Chairman Meeker declared the motion carried.

Bill Koesan stated at the last hearing the question arose in regard to the fee structure. He submitted to the Committee copies of proposed amendments in reference to those suggested changes in the fee structure. These amendments were dated March 8 and marked "B" and have been made a part of the permanent committee files. In addition to the amendments to the fee structure they are also proposing an amendment on page 27, line 33, which has been proposed today by Mr. Corlett, that all legal voters within the boundaries of the protected area are eligible to vote.

Mr. Koesan stated the proposed amendments on the fee structure removes the fees to be charged and allows the fees to be established by the department within limits.

Chairman Meeker asked why the department is suggesting that the maximum fee to be established has been increased by \$5.

Mr. Koesan stated that the fees originally provided for in SB 106 provided for funding of the program as needed at this time and as needed for the forthcoming biannium. The slight increase is suggested to carry through for several years in advance and takes care of the inflationary factor they are sure will be one of the things they have to deal with.

Ben Allen stated they would like to have the fees established as they are proposing so they don't have to come back to the Legislature next time asking for an increase.

Senator Hartung stated he feels this should not be a revenue raising measure. The fee should be set based on the cost of providing this service and if this will be done through the hearing procedure he

would have no objection to raising it by \$5. He stated he would want it very clear that it is the intent that by giving this flexibility, the idea is to keep the fee lower than the maximum written into the law.

Mr. Allen stated the fee that is intended to be assessed at the outset of the application of this law is the original fee in SB 106. That is what it takes based on their budget.

Chairman Meeker asked Mr. Allen to clarify the procedure they would utilize in increasing the fees.

Mr. Koesan responded by saying this would have to be accomplished through the public hearing procedure. This procedure is not outlined in SB 106 but is in accordance with Administrative Rules, Chapter 183. This is the general statute that provides that anytime a fee is changed Chapter 183 must be utilized.

Their proposed amendment on page 27, line 33, is largely the same as proposed by Mr. Corlett.

MOTION: Senator Hartung moved that the proposed amendments submitted by Mr. Koesan, dated March 8 and marked "B" be amended to delete the last three lines which refer to page 27, line 33.

There were no objections to the motion and Chairman Meeker declared the motion CARRIED.

MOTION: Senator Hartung moved that the proposed amendments, as amended, to SB 106 as submitted by the Department of Agriculture, dated March 8 and marked "B" be adopted.

There were no objections and Chairman Meeker declared the motion carried.

Frank Steward asked what fee the Department of Agriculture would expect to establish under the area of the various classifications.

Mr. Koesan stated they would propose those fees as outlined in SB 106.

Mr. Allen responded that once SB 106 becomes law the Department will proceed under 183 establishing the fees and they will be established at the levels that were in the original bill dependent on what happens to their budget in Ways and Means.

Chairman Meeker requested that Don Jarvi, Administrative Assistant, present proposed amendments that have been previously submitted to the Committee.

Don Jarvi stated there are some requests for definitions, one for "synthetic chemicals". There is a request from the OEC suggesting an addition to Section 5 (h) that two members shall represent the

public at large and they would like the addition "these appointees shall receive no significant portion of their income either directly or indirectly from the sale, application or use of pesticides". There is also amendments to add a farmer and an applicator to the Synthetic Chemicals Committee.

Senator Hartung stated he would not favor the first amendment but would like to hear someone from the Department of Agriculture indicate why they would prefer to see subsection (h) left as it is.

Mr. Koesan stated it is their feeling that rather than a farmer or some of the other groups be on the committee, there be some flexibility in the selection of persons on the committee and that these be persons who are knowledgable in chemicals of all kinds, not just in pesticides, but in all synthetic chemicals, and then the committee would be in a position to maintain its objectivities in the entire area.

Senator Hartung he would accede to the Department's request inasmuch as they have had the committee operating for four years and they have a feel for who can give the most input. He stated he is concerned that in this public at large there would be appointed someone who understands the farmer who is the consumer of this service that they make sure that that interest is represented. He can see some advantage in allowing some flexibility in allowing the membership to remain and would not request that sub (h) be changed.

Chairman Meeker stated he would agree and with the large number of requests that have been made for representation on the committee it would be much better to allow them flexibility in the appointing agency and leave it as two members of the public large and not specify who those might be. As the problems change then the membership can be changed.

Don Jarvi stated there is also a proposed amendment on page 3, line 11, by the American Cyanamid Company, for the definition of "highly toxic" they would like to insert "if acute oral toxicity rating LD50 of 50mg/kg to mammals".

In response to a question from Chairman Meeker Mr. Koesan stated chemicals are defined as highly toxic in a large measure by the LD50 or LC50 rating. This refers to the milligrams of the chemical per kilogram of body weight, in most instances, in test of rats that cause death of 50 per cent of the animals. For most purposes chemicals with an LD of 50 mgs. or less are considered in the highly toxic range; however, they feel that to pin point it, again remove the flexibility area that is important to them. The way the chemicals are formulated enter into this. When the Department establishes a chemical as highly toxic or any other classification it goes through the administration procedures.

Don Jarvi stated there is also a proposed amendment, on page 3, line 26, for the definition of "fungicide". In addition to the existing language they would like to add "or bacteria".

Mr. Koesan stated that in some instances the definition of

March 8, 1973

fungicide is expanded to include other organisms. Bacteria and some of the other organisms that might be listed in this definition in the true sense might not be fungi. A fungicide is a chemical that is effective on fungus organisms. It is largely a matter of words and he feels their definition in SB 106 is adequate and it was taken from the present law.

Don Jarvi continued with previously proposed amendments. In Section 19, page 20, no provision is made for examining and licensing one person in the dealership, others under his supervision should not be licensed.

Mr. Kosesan stated that in their judgment at this time an examination is not necessarily needed. But employees who give recommendations on the use of highly toxic chemicals should be examined and SB 106 proposes such a provision in the consultant area.

Dick Bell, Chevron Chemicals, stated as a corporate entity where they have warehouses where consultants are not available, other than by phone, they would want and request that they have someone who has been tested and is capable, not only on their own standards, but on the state standards to dispense chemicals. This is where Washington go into trouble with dispensing by a casual employee of a chemical that ultimately caused death in animals.

Senator Hartung stated this is something we have to deal with and asked how the Department of Agriculture would deal with this.

Mr. Kosesan stated SB 106 speaks to the licensing of consultants and that by definition is any person who gives recommendations or advice to use, application, etc. of highly toxic chemicals or those classified for restricted use. There are some dealers of pesticides who do not use highly toxic chemicals, they are general use chemicals. The highly toxic chemicals will not be available to the general garden store, for sale, under any circumstances. It is their feeling the person who is dispensing the advice with respect to highly toxic chemicals is the one who should be licensed.

Dick Bell stated in Washington they have what they call a Dealer-Manager license. He has to be fully knowledgeable of the State of Washington's laws for agricultural chemicals besides having an adequate knowledge of chemicals, not necessarily their recommendations, but their toxicities and what they mean.

Senator Hartung asked then if he is required to be on the premises at all times and why he couldn't be licensed as consultants in SB 106.

Dick Bell stated that, as Mr. Kosesan has pointed out, a consultant is licensed as per sa if he makes recommendation. In Washington the Dealer-Manager cannot make recommendations but they want him to be knowledgeable of dispensing and sale of chemicals and whether they are highly toxic or not. A consultant has to be far more knowledgeable. He added he is only required to be on the premises only as much as can be expected of a manager.

Mr. Allen stated perhaps the Committee would want to put in the

definition of those people are required to have that kind of expertise if there is nobody else and this is the kind of outlet where he dispenses. It is their feeling the man who dispenses it is giving some advice is a consultant, but maybe it would further close the gap if we say one who dispenses.

Senator Meeker stated he feels this would be difficult for the wholesalers. He asked if this subject was brought up in the task force and why did the task force decide in the negative to include this kind of thing in the licensing procedures.

Mr. Kosesan stated they looked into the State of Washington law that relates to the licensing requirement in the examination requirement for dealer-manager. It was their conclusion that an actual examination for the dealer-manager would not add anything to their program as they had projected it. The purpose in licensing dealers in SB 106 without an examination is simply to identify those location from which pesticides would be sold or distributed for purposes of maintaining, if necessary, some control over the movement of highly toxic or those that are restricted.

Royal Tarter a member of the task force stated they spent quite a bit of time on this trying to decide what was needed and what would do the job. They have the feeling that anyone who dispenses chemicals should be licensed as a consultant to intelligently talk about them. They will have to have a licensed consultant on their premises at all times to sell these chemicals. At the time the task force proposed the bill they did not know what the Federal law was going to be or how detailed it would be or if we would have to maintain a poison registry or something of that sort.

Tom Cowen, Uniroyal Chemical Division, stated he doesn't sell any highly toxic or dangerous chemicals. He stated he objects quite strongly to not being tested and licensed. He feels that anyone who gives advice in the use of pesticides should be licensed whether those compounds are highly toxic or not. It is the feeling and recommendation of the Western Agricultural Chemical Association that all persons giving advice and recommendations on agricultural chemicals should be examined and licensed.

Chairman Meeker asked if there were any further comments to the bill as it has been amended.

There was no response.

Chairman Meeker stated he would be inclined to accept a motion to send this bill from the Subcommittee to the Committee of the whole with the recommendation that the Senate Agriculture and Natural Resources Committee adopt the amendments as suggested by the Subcommittee, have the bill engrossed and returned to the Committee for one final hearing. He feels the current bill is a model law for the State regulating the use and control of highly toxic chemicals. It is a landmark legislation for Oregon and thinks it will establish procedures whereby the use of chemicals on agricultural lands will be controlled much better than ever before. He would hope the Senate Agriculture and Natural Resources

Committee will send it to the Floor with a DO PASS.

MOTION: Senator Hartung moved that SB 106, as amended, be sent to the Full Committee on Agriculture and Natural Resources with the recommendation that it be accepted.


There were no objections and Chairman Meeker declared the motion CARRIED.

Chairman Meeker declared the meeting adjourned at 2:00 P.M.

Respectfully submitted,



Senator Anthony Meeker
Chairman



Annetta Mullins
Committee Clerk

SENATE COMMITTEE ON AGRICULTURE
AND NATURAL RESOURCES

March 12, 1973

3:00 P.M.

407 B Capitol

Members Present: Senator Tom Hartung
 Senator Fred Heard
 Senator Norman Howard
 Senator Anthony Meeker
 Senator Stan Ouderkirk, Vice Chairman
 Senator Mike Thorne, Chairman

Members Excused: Senator Ted Hallock

Witnesses: Senator Lynn Newbry
 Representative Denny Jones
 Ranny Rancourt, Multnomah Anglers & Hunters
 Lewis Furber, Klamath County Farm Bureau
 John McKean, Oregon Game Commission
 John Neilson, Oregon Environmental Council

Chairman Thorne called the meeting to order for purposes of receiving testimony on SB 336 and SB 490 and the Committee's consideration of SB 106 as amended by the subcommittee and referred back to the full committee.

SB 106

Senator Meeker explained the amendments to SB 106 to the Committee. Other than the housekeeping changes there are three main areas that have been amended. The committee was concerned about the statements in the bill referring to 1080. Because the chemical 1080 is very tightly regulated by the Federal Government and further regulated by the enactment of SB 106 through administrative procedures any reference to 1080 has been eliminated from the law. It has been taken out completely from the current law. It is regulated as a highly toxic chemical. Also, rather than having the Department of Agriculture instructing them they "may" follow Federal guidelines in this area, the bill instructs them that they "shall" follow Federal guidelines on highly toxic and restricted-use chemicals. The second major thing was the licensing of farmers provision in the bill. The subcommittee amended the bill so that a "private applicator" rather than a "farmer applicator" is defined so it takes in the people who might be in the Christmas tree business or forestry business; anytime a person applies them himself. Rather than requiring him to be licensed when he applies highly toxic or registered chemicals, under this bill he is required to get a certificate. He doesn't have to know all the chemical laws all he has to know are the controlling factors of the chemical he is going to use. All the other provisions for licensing consultants, dealers and applicators remain the same. If the chemicals are not highly toxic or restricted the bill does not apply. The bill would utilize the APA procedures for establishing a list of highly toxic and restricted-use chemicals. After hearing proposed amendments for

adding everybody from a farmer to the commercial applicator to the Synthetic Chemicals Committee the Committee decided to leave the make-up of the committee as it is without adding any specific kinds of people. However, the makeup of the natural resources agencies was changed. Rather than saying three members shall represent, they are specified as the State Forestry Department, State Game Commission and the State Department of Geology and Mineral Industries. The Department of Agriculture is represented by the virtue of the fact the chairman is from the Department of Agriculture.

In response to a question from Chairman Thorne Senator Meeker stated the Synthetic Chemicals Committee is strictly an advisory committee. The purpose of the committee is to advise the Director of the Department of Agriculture as to the use of toxic and all chemicals, how to dispose of the unused chemicals, etc. They don't promulgate any rules or regulations.

Senator Meeker added the subcommittee decided that establishing fees in the bill was a little bit unwise so rather than establish fees, allowed for maximum fees and the Department will set the fees after hearings, not to exceed the maximum fee.

There were some changes on page 25 as to the establishment of protected and restricted areas which are areas where chemicals can't be used, but they are more procedural than anything else. There was no change in the existing restricted areas.

MOTION: Senator Meeker moved that the Full Committee adopt the amendments to SB 106 as submitted by the Subcommittee.

Senator Hartung added he feels we are going to have to lean an awfully lot on the Synthetic Chemicals Committee to make this thing work because in many instances it is quite different in the areas of use and control of pesticides. The committee will be a very important part of it. If they can't give the knowledge and leadership that it says in the bill, which he thinks they can, some changes will probably have to be made two years from now but feels they will be responsible for whether this works or doesn't work.

Senator Meeker pointed out that when there is a particular problem they contact those concerned and sometimes form subcommittees to obtain advice in that particular area. The Subcommittee considered creating several subcommittees to serve under the advisory committee but that got to be too much and the final decision was to leave the committee the way it is.

Senator Meeker's motion to adopt the amendments was put to a vote and declared CARRIED unanimously.
Senator Hallock was excused.

MOTION: Senator Meeker moved that SB 106, as amended, be sent to the Floor with a "DO PASS" recommendation.

The clerk called the roll with Senators Heard, Howard, Hartung, Meeker, Ouder Kirk and Thorne voting AYE.
Senator Hallock was excused.

Chairman Thorne declared the motion CARRIED.

Senator Meeker will lead discussion on the Floor.

Senator Ouderkirk asked that the Committee consider introducing a bill on behalf of the independent ports of the State to amend Chapter 777.132 Section 2. That is the port chapter that was amended last Session to allow the ports in Eastern Oregon to make their water districts and to pump water, etc. The other ports would like to have that same authority and the bonding authorities have said they do not have that right.

Chairman Thorne directed the clerk to have the proposed legislation drafted for introduction as a committee bill.

SB 336 SB 490

Senator Newbry stated Senator Heard and other members of the delegation representing portions of Klamath and Jackson Counties have introduced SB 336 and SB 490. They both deal with the same problem but in a different way. The problem that exists is that there are lands that are lying within their district that are desirable from the standpoint of game management to be used but at the current time they are being used as farm land. The ownership of this land is of the opinion that they would like to have it remain in that status and they are concerned about the fact that the Game Commission does have the authority of eminent domain and at any time they could condemn this property and take it for public use. In the last Session of the Legislature there was a bill which would have amended 496.410 relative to the Game Commission having the right of eminent domain to exclude that authority from the Commission. This bill deals with this in a little different way.

SB 336

SB 336 would require that before the Game Commission does exercise the right of eminent domain that they would first have to have Legislative authority to proceed with the condemnation. Normally when it is in the public interest to acquire a piece of property it is appropriate for the state agency involved to proceed to acquire the land first through the normal procedures and failing in that to normal condemnation. He thinks the Game Commission is actually in a little different position than most other state agencies. In that the Game Commission does not represent the general interest of the public but primarily the interests of a portion of the general public who support the Game Commission through their license fees, etc. He feels it can be argued rationally that an agency such as the Game Commission might well be subjected to legislative review before proceeding to acquire more property for the promulgation of game or whatever purpose it has in mind in order to insure that public policy is being carried out. For that reason he introduced SB 336.

SB 490

In California similar problems have been encountered and they have adopted a policy that is similar to what is provided in the text of SB 490 wherein the local area is involved at considerable expense in determining whether or not it is in keeping with public policy

February 8, 1972

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

ENVIRONMENTAL SAFEGUARDS ON ACTIVITIES
FOR ANIMAL DAMAGE CONTROL ON FEDERAL LANDS

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Conservation Act of 1969 (16 U.S.C. 668aa), it is ordered as follows:

Section 1. Policy. It is the policy of the Federal Government to (1) restrict the use on Federal lands of chemical toxicants for the purpose of killing predatory mammals or birds; (2) restrict the use on such lands of chemical toxicants which cause any secondary poisoning effects for the purpose of killing other mammals, birds, or reptiles; and (3) restrict the use of both such types of toxicants in any Federal programs of mammal or bird damage control that may be authorized by law. All such mammal or bird damage control programs shall be conducted in a manner which contributes to the maintenance of environmental quality, and to the conservation and protection, to the greatest degree possible, of the Nation's wildlife resources, including predatory animals.

Sec. 2. Definitions. As used in this order the term:

(a) "Federal lands" means all real property owned by or leased to the Federal Government, excluding (1) lands administered by the Secretary of the Interior pursuant to his trust responsibilities for Indian affairs, and (2) real property located in metropolitan areas.

(b) "Agencies" means the departments, agencies, and establishments of the executive branch of the Federal Government.

(c) "Chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death, to animals or man.

(d) "Predatory mammal or bird" means any mammal or bird which habitually preys upon other animals or birds.

(e) "Secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into, a mammal, bird, or reptile, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter injected by man, mammal, bird, or reptile, produces the effects set forth in paragraph (c) of this section.

more

(OVER)

(f) "Field use" means use on lands not in, or immediately adjacent to, occupied buildings.

Sec. 3. Restrictions on Use of Chemical Toxicants.

(a) Heads of agencies shall take such action as is necessary to prevent on any Federal lands under their jurisdiction, or in any Federal program of mammal or bird damage control under their jurisdiction:

(1) the field use of any chemical toxicant for the purpose of killing a predatory mammal or bird; or

(2) the field use of any chemical toxicant which causes any secondary poisoning effect for the purpose of killing mammals, birds, or reptiles.

(b) Notwithstanding the provisions of subsection (a) of this section, the head of any agency may authorize the emergency use on Federal lands under his jurisdiction of a chemical toxicant for the purpose of killing predatory mammals or birds, or of a chemical toxicant which causes a secondary poisoning effect for the purpose of killing other mammals, birds, or reptiles, but only if in each specific case he makes a written finding, following consultation with the Secretaries of the Interior, Agriculture, and Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, that any emergency exists that cannot be dealt with by means which do not involve use of chemical toxicants, and that such use is essential:

(1) to the protection of the health or safety of human life;

(2) to the preservation of one or more wildlife species threatened with extinction, or likely within the foreseeable future to become so threatened; or

(3) to the prevention of substantial irretrievable damage to nationally significant natural resources.

Sec. 4. Rules for Implementation of Order. Heads of agencies shall issue such rules or regulations as may be necessary and appropriate to carry out the provisions and policy of this order.

RICHARD NIXON

THE WHITE HOUSE,

February 8, 1972.

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Senate Committee on Ag & Nat. Resources
 Date: 2/9/73 Time: 3:00 Room: 407B

Public Hearing on SB 106
 (Measure No.)

Please register if you wish to testify on the above-named measure.

Name and address	Representing	For	Against
Bill Kosman	State Dept of Agriculture	-	
Core Nelson	Ore Farm Burea Fed	✓	
Earl Moore	Moore Brothers Hood River	✓	
Ron Collins	Wash. County Farmers	✓	
Jack Spitzmeier	H.R. farmer	✓	
Carroll Sullivan 2045 NE 144, Portland	W.L.A. ISSAC Water League	✓	✓
Jack Holland	W.A.C.A.	✓	
Joe Capizzi	O.S.V.	✓	
Frank Stewart	Miller Products	✓	
Geo. Kitzmiller	Pacific Supply Coop	✓	
Royal Tarter	Meeker Fertilizer Co	✓	
W. H. Sorrow	Hood River Farmer	✓	?
Karen Runkel	Ore Environ Council		?
Bob Symon	DEQ	✓	
Ed Lyell	Oregon Pest Control Operators	✓	
Bill Gail (4)	H. R. - grower		

By Carroll Smithson

Statement on Senate Bill 106 - Oregon
Legislative Assembly -- 1973 Regular Session

The Oregon Division of the Izaak Walton League commends the efforts of the Oregon Legislature to revise provisions relating to the registration, control and use of pesticides in Oregon, and respectfully submits the following league policy on pesticides, their use and control:

The Izaak Walton League realizes that while it is necessary to control organisms which compete with man for food and other renewable resources, it is essential that such controls be directed toward specific targets, whether insects, fungus, weeds, or rodents.

a. PERSISTENT PESTICIDES: All chlorinated hydrocarbons should be outlawed.

b. BROAD SPECTRUM CHEMICALS: All chemical controls which may destroy or damage unintended target organisms should be replaced by more specific materials.

c. BIOLOGICAL CONTROL: Full support should be given to pesticide control by predators, attractants, sterilization, and other means aimed specifically at target organisms with minimum reliance on chemical treatment.

d. ECOSYSTEM TESTING: All pesticides should be fully tested in actual field experiments to determine all side effects under environmental conditions.

e. SAFETY AND LIABILITY: Laws should be enacted to place responsibility for full determination of the safety in use of all pesticides on the manufacturer thereof, and liability for proper application on the users of such products.

PROPOSED SENATE AMENDMENTS TO

SENATE BILL 106

BY COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

On page 6 of the printed bill, line 23, after "large" delete the period and insert "one of which shall be a farmer."

Kee 5
219 SB 106
S. AG. & NAT. RES. COM.
OREGON STATE ARCHIVES



2/9/72

Washington Pesticide Laws

Applications Act - Chap 1725

Permits
Pest-Pesticide-Application

Exemptions - Farmer -

Advisory Board

Appointed by Governor -

Advising Director

3 Licensed P. Applicators

• a - 1 - ground

• b - 1 - Aerial

• c - 1 - Structural

1 - 1 - Entomologist in Public Service

1 - 1 - Toxicologist " " "

1 - 1 - Plant Pathologist " " "

1 - 1 - Ag Chem -

1 - 1 - Food Processing

1 - 2 - Farmers

1 - Gov. Services -

was in Pest-Control Act - 1959

Pesticide Control Board -

Resistant -

Chem-pesticide Requiring Permit

"Niagara makes the difference" ³

Spetzmeister

ST. AG. & NAT. RES. COM.

Senate Committee on Ag & Natural Resources
 Date: 2/12/73 Time: 3:00 P.M. Room: 407B

Public Hearing on SB106
 (Measure No.)

Please register if you wish to testify on the above-named measure.

Name and address	Representing	For	Against
WILLIAM L. OWEN +	OREGON CHAPTER — INTERNATIONAL PESTICIDE APPLICATORS	For with AMND	✓
Wes Lydell X	^{Oregon} Pest Control operators assoc.	↓	
Frank B. Stewart X	The Chas. H. Lilly Co	✓	
Jack B. Holland Q	^{Wash} Ag. Chem. Assoc.	✓	
DR WESGARTH			
Lloyd Texter	Meeker Chemicals —		

Exhibit "A" SB106 8
S. AG. & NAT. RES. COM.
OREGON STATE ARCHIVES
Frank Stewart
2/12/73

S B 106

Under "Registration, Sale & Use" Section 7 (1), Page 7, beginning line 23, it is stated that every brand and each formula or formulation there-under of pesticide manufactured, -- etc. -- shall be registered each year with the dept. Sub section (5) Page 8, beginning line 10, it is stated that - the application for registration shall be accompanied by a registration fee to be established by the dept. -- etc. -- which shall not exceed 40.00 -- etc.

It is understood that under ORS Chapter 183, Administrative Procedures, that change in registration fee can only be made after public hearing.

In keeping with the above, we propose that various sections of SB 106 be amended so that the license and certification fees be changed to read so that the fee is established by the dept. and shall not exceed "X" amount. The sections

involved are:

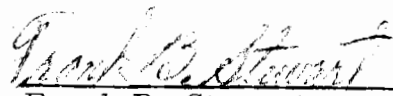
- Section 15 (3) (a) Page 14 Pesticide Operators License
- Section 15 (14) (a) Page 17 Public Applicator License
- Section 15 (14) (a) Page 17 Public Trainee Certificate
- Sections 16 (4) (a) & (b) Page 18 Pesticide Applicator License
- Section 18 (1) Page 19 Pesticide Consultant License
- Section 19 (1) Page 20 Pesticide Dealer License
- Section 20 (1) Page 21 Pesticide Farmer Applicator License

I was impressed with the proposal for the Motor Vehicle Division that Registration be changed to a 4 year period so as to reduce the administrative burden and costs of the annual registration.

In keeping with the above, we propose that to reduce the administrative burden on the dept., that licenses and certificates be issued on a multi-year bases with annual notification by the individuals that they will continue to operate under the license or certificate. At the end of the multi-year period re-examination may be required. These people are professional contrary to some opinion.

The enforcement burden of the new Federal Environmental Pesticide Control Act (FEPCA) is being thrown on the various States without funding, in so far as can be determined. We are not in agreement that the State should carry the enforcement provisions without Federal funding.

We are sympathetic that the dept. need funds, but believe that the Registration and License fees proposed are for enforcing FEPCA, are excessive as proposed and an added burden on Oregon's Agriculture and must be established only after Public Hearings and with the least additional Administrative burden on the Department of Agriculture.


Frank B. Stewart
Vice President
The Chas. H. Lilly Co.

Member of Committee on Synthetic Chemicals in the Environment
Past President - Western Agricultural Chemicals Assn.
Past Director - National Agricultural Chemicals Assn.

Ephelut
2/9/73

"B" SB106 10
S. AG. & NAT. RES. COM.
OREGON STATE ARCHIVES

Statement on SB106
by OEC Wildlife Committee
Judy Faich, Chairwoman

We are deeply distressed to see that SB106 would permit the use of the highly toxic chemicals 1080 (section 7, subsection 7), strychnine and cyanide (section 32, subsection 5) for predator control in Oregon, despite the fact that action has been taken on the Federal level to restrict the useage of these toxicants. In fact, we question the legality of permitting such useage in Oregon on the basis of the following order, issued on March 9, 1972, by William Ruckelshaus of the Environmental Protection Agency: "In accordance with the attached opinion and findings, it is hereby ordered that the registration for all products containing sodium fluoroacetate (1080), sodium cyanide or strychnine for use against mammalian predators be cancelled and suspended immediately. Registrations for those products bearing directions as listed above are hereby suspended and the products may not be legally shipped in interstate commerce until labeled to block out instructions for predator use." In teking such action Mr. Ruckelshaus noted that "There is no reliable data as to the amount of predator control achieved by the use of these poisons. There is no reliable data as to the loss of sheep that might occur without a predator control program using these poisons..."

Each of these poisons is highly toxic to humans and animals, with some species being more susceptible than others (such as the canine family to 1080). Please note that SB106 (Section 7, subsection 6, part b) states that the Department of Agriculture may "refuse to register any pesticide which is highly toxic for which there is no effective antidote.."; yet SB106 would permit the use of strychnine, cyanide and 1080--all highly toxic and having no effective antidotes. It should also be noted that 1080 is particularly objectionable because of its high

Page 2
Statement on SB106
by OEC Wildlife Committee
Judy Faich, Chairwoman

secondary poisoning hazards. Eric Peabody of the Fish and Wildlife Service has said, "A poison as toxic as 1080 has the potential of a biological high explosive."

Strychnine, cyanide and 1080 have been used extensively in the predator control program in Oregon for many years, yet the fact that so many stockmen are complaining about "the highest coyote population ever" leads us to question the effectiveness of these poisons for coyote control. Figures from the Division of Wildlife Services, which conducts the predator control program in Oregon, serve to emphasize this point:

	<u>TOTAL COYOTES RECOVERED FROM PREDATOR CONTROL PROG.</u>	<u>1080 AND STRYCHNINE</u>	<u>CYANIDE</u>	<u>TRAPS</u>
Fiscal 1971	4,989	376 (7.5%)	415	3,235
Fiscal 1972	4,865	251 (5.1%)	324	2,953

As these figures indicate, the method that takes most coyotes is trapping (over 60%).

We would also point out that although many are complaining of a high coyote population, statistics on Oregon's sheep losses, collected by the Department of Agriculture for the August-November (1972) period, show coyote depredations have been less than half of what they were in 1971. (Eugene Register-Guard, Jan. 11, 1973).

In view of these facts, we strongly urge that SB106 be amended to prohibit the use of these toxicants for predator control. President Nixon's Advisory Committee on Predator Control has recommended that individual states pass legislation to ban the use of toxicants in predator control. It would be gratifying if Oregon were to assume leadership in this area.

Exhibit "C" 11 12
2/9/73 SB106

S. AG. & NAT. RES. COM.

OREGON STATE ARCHIVES

Testimony of Karen Runkel of the
Oregon Environmental Council
concerning Senate Bill 106

Page 6, Section 5(2)(h) provides that two members of the
Committee on Synthetic Chemicals in the Environment "shall
represent the public at large."

Suggested addition to section 5(2)(h): Two members shall
represent the public at large." These appointees shall receive
no significant portion of their income, either directly or
indirectly, from the sale, application or use of pesticides.

This change is recommended because section 6(1) of this Act
provides that members of the committee shall be composed of those
who are experienced with the management and use of pesticides
and other synthetic chemicals. One large group of people
who meet this standard are those who derive their livelihood
from the use of pesticides. These people, while they may be
knowledgeable, are self-interested and cannot properly represent
the public at large.

Page 8, Section 7(6)(b) provides that the department may
refuse to register any pesticide which is highly toxic for
which there is no effective antidote under the conditions of
use for which such pesticide is intended or recommended.

Suggested change: Remove paragraph (b) from this subsection
and number it subsection (7); the other subsections should be
renumbered accordingly. The new subsection should read: The
department shall refuse to register any pesticide which is

Testimony of Karen Runkel, page 2

highly toxic for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended.

This change is recommended because I do not believe that pesticide applicators or others exposed to pesticides should be exposed to the risk of serious injury or death from those pesticides. As an ordinary matter there are several pesticides available for any given use so this restriction will only limit the applicator's choice of pesticides. It will not prevent the use of any pesticide.

Page 9, Section 7(7) provides that "The pesticide known as "1080" (sodium fluoroacetate), or any mixture containing such pesticide shall not be registered by the department for any purpose except the following." Subparagraphs (7)(a), (7)(b), and (7)(c) set forth the uses for which it may be registered.

Suggested change: Section 7(7) should read: Sodium fluoroacetate ("1080"), strychnine, hydrogen cyanide, and thallium sulfate shall not be registered by the department.

This change is recommended because these four poisons are very toxic. To get a better idea of just how poisonous they are I referred to a manual on poisons which is available in the state library (Jay Arena, M.D., Poisoning - Toxicology - Symptoms - Treatment). On page 133 of this text is a table which gives the estimated dose in grams necessary to kill a 70 kg. person. I have converted these units to ounces necessary to kill a 157 pound man.

Testimony of Karen Runkel, page 3

Estimated fatal oral dose

	ounces/157 lb.
Thallium sulfate	.034
Strychnine sulfate	.0034
"1080"	.0051
Hydrogen cyanide	.01

These extremely toxic pesticides are commonly used to poison predators, primarily coyotes, and rodents. They are typically not placed with care but are dispersed in a manner which makes them accessible to a wide range of wildlife. Poisoned meat which is intended for coyotes will also attract carrion-eating birds such as bald and golden eagles, hawks, owls, vultures, and crows as well as numerous meat-eating animals. It will also will attract hunting dogs. Poisoned grain which is scattered for rodents probably attracts more birds than rodents.

These two features, extreme toxicity to man and other animals and non-selective dispersal have caused me to conclude that these pesticides should be banned entirely.

Thallium sulfate and 1080^{are} also sufficiently persistent to cause secondary poisoning. That is to say that an animal which eats the carcass of a poisoned animal will also be poisoned. This results in the destruction of many animals other than the intended victims.

Thallium sulfate has been banned by the federal government but Arena, supra, reports that incidents of thallium poisoning still occur. If thallium sulfate is not registerable for use in Oregon, pesticide applicators and operators will be alerted to the dangers associated with it should it come into their hands.

Testimony of Karen Runkel, page 4

Page 12, Section 14(1) provides that the license required of a pesticide consultant, dealer, operator, applicator, farmer applicator or trainee shall expire on December 31 following issuance and section 16 provides for examination of the applicant. No provision is made for reexamination.

Suggested addition: insert a new subsection numbered 14(3) and renumber the succeeding subsections appropriately. The new subsection should read: "Applicants for renewal licenses shall be examined as provided by section 16 of this Act at least every three years, or more frequently if the department shall so require. The department shall provide for a reexamination for those who fail the initial examination. The reexamination shall not be less rigorous than the initial examination. No license shall be renewed until the applicant therefore has successfully passed the reexamination."

This change is recommended because pesticides are, if improperly used, capable of great harm. The administrative burden on the department will be relatively light and the public will be better served since licensees will be forced to refresh their memories as to the practices of pesticide use periodically. Further, there will invariably be changes in the laws, administrative rules and technical practices relating to pesticides. These changes can be incorporated into the reexamination material to insure that the licensees are aware of current laws, rules and practices in the field.

Page 15, Section 15(5) provides that an operator's license

Testimony of Karen Runkel, page 5

shall not be renewed until the applicant has furnished evidence that he has a public liability insurance policy. It further provides: "... or in lieu of such insurance, has furnished a deposit of cash or negotiable securities acceptable to the department which may be applied by the department to the payment of damages resulting from such liability."

Suggested change: The phrase quoted immediately above should be deleted from the sentence.

I suggest this deletion because I believe that the bond required would be substantially less than the \$50,000 insurance policy which is required by section 15. As I have said before, pesticides are dangerous chemicals. Those who are harmed by the misuse of these chemicals should at least be compensated for the harm suffered.

Page 15, Section 15(5)(a) and 15(5)(b) would exempt licensees from financial responsibility for damages to crops and real or personal property being worked on by the licensee.

Suggested change: Delete paragraphs (a) and (b) from section 15(5).

Pesticide licensees are dealing with hazardous chemicals. There is no sound reason why those who are injured by the misuse of these chemicals should be denied compensation.

Page 15, Section 15(8) provides that notwithstanding any other laws to the contrary, the financial responsibility of a pesticide applicator or operator shall be limited to

Testimony of Karen Runkel, page 6

actual damages.

Suggested change: Delete subsection (8) from section 15.

This change is suggested because pesticides are hazardous chemicals. There are many instances when actual damages (\$ lost) will not compensate a person for all the harm they have suffered. Those who are injured by the misuse of pesticides should be entitled to general (pain and suffering and other, hard to measure in dollar terms) damages and, if warranted, punitive damages.

Page 16, Section 15(9) provides for the refund of the financial responsibility deposit under certain conditions. Since I have recommended deletion of that portion of section 15(5) which would permit a financial responsibility deposit in lieu of liability insurance ^ethere is no reason to retain a section providing for refund of the deposit. Therefore I recommend that paragraph (9) be deleted from section 15.

Page 16, Section 15(10) provides that the department may by regulation allow aircraft pesticide operators to reduce, suspend or terminate their liability insurance during certain periods of the year.

Suggested change: Delete subsection (10) from section 15.

As I have indicated before, I believe pesticide applicators and operators should have adequate insurance to compensate those who may be harmed by them.

Testimony of Karen Runkel, page 7

Page 16, Section 15(11) would allow the liability insurance required by subsections (5) and (6) of section 15 to include a deductible clause.

Suggested change: Delete subsection (11) of section 15.

As I have indicated above, I believe that pesticide use is sufficiently hazardous that licensees should be fully insured.

Page 22, Section 22(3)(a) exempts agencies, instrumentalities and political subdivisions of the United States and the State of Oregon and their officers, agents and employees from the provisions of sections 14 to 17 and section 21 of this Act. Paragraph (b) of subsection (3) of section 22 would exempt counties, cities and municipal corporations from the provisions of sections 14 to 17 and 21 of this Act.

Recommended change: Delete subsection (3) from section 22. If my suggested amendments to sections 14 and 15 are not adopted, subsection (3) of section 22 should be left as it is.

Section 14 provides for licensing of pesticide consultants, dealers, operators, applicators, farmer applicators and trainees. Section 15 provides in part for licensing and in part for liability insurance for licensees. Section 16 sets forth the criteria for licensing applicators. Section 17 provides the criteria for issuance of a pesticide trainee's certificate. Section 21 provides for the keeping of records by pesticide operators. I believe that all of these sections are important because of the possibility of harm from the

Testimony of Karen Runkel, page 8

misuse of pesticides. Many local government bodies apply pesticides in urban areas, thus increasing the danger. It thus seems to me doubly important that sections 14 through 17 and 21 apply to state and local governments.

Page 23, Section 22(7) exempts railroads from the provisions of sections 14 through 17 and 21 of this Act.

Proposed change: Delete subsection (7) from section 22.

Sections 14 through 17 and 21 are important because of the possibility of harm from the misuse of pesticides. The public is best protected if these provisions also apply to railroads.

Page 23, Section 23(1) provides that no lawsuit against a pesticide operator shall be commenced unless the claimant has filed a report of loss with the department within 60 days of the occurrence of such loss.

Recommended change: Delete subsection (1) from section 23.

This change is recommended because the provision that no lawsuit shall be filed against a pesticide operator unless a report of loss is filed with the department within 60 days of the occurrence of the loss amounts to a 60 day statute of limitations on lawsuits. Present Oregon law provides for a 6 year period of limitation on contract actions and a two year period of limitation on tort actions (though in certain instances the action may be brought as long as 10 years after the act or omission complained of). Tort actions against public bodies require that a claim be filed with the public

Testimony of Karen Runkel, page 9

body responsible for the act complained of within 180 days of the occurrence of the act complained of. If section 23(1) is left as it is, these periods of limitation will be cut short by the 60 day report of loss requirement. It is not sound public policy to permit those engaged in a hazardous occupation to escape liability for their torts and/or breaches of contract because of an artificially short period of limitations.

Page 25, Section 23(5) provides that nothing in section 23 shall be construed as a waiver by the State of Oregon or any state agency, county or municipality of any immunity of suit which may otherwise exist.

Suggested change: Delete the present subsection 5 and substitute: Tort actions against the State of Oregon or any state agency, county or municipality or other public body shall be brought pursuant to the terms of ORS 30.260 through ORS 30.300.

The section which I have suggested be deleted does not provide for sovereign immunity, since ORS 30.260 through ORS 30.300 provides for suits against public bodies. The suggested substitution merely makes existing law explicit.

Page 27, Section 27(1) provides for the establishment of protected areas and for the administration of such areas by governing committees. Three of the members of the committee are to be elected by residents of the protected area and

Testimony of Karen Runkel, page 10

two members are to be appointed by the department. Section 27(2)(b)(D) provides that the area committee not engage in the business of buying or selling pesticides.

Suggested addition: There should be added a new subsection numbered Section 27(2)(c) which provides as follows: No member of any area committee, whether elected or appointed, shall receive any significant portion of his or her income, either directly or indirectly, from the sale, application or use of pesticides.

Those who derive their livelihood from the use of pesticides will be self-interested in virtually every decision made by the committee. Under these conditions they cannot impartially represent the interests of the residents of the protected area.

Page 33, Section 32(5) provides for the establishment of special record keeping procedures for those who formulate, distribute, sell or use strychnine, hydrogen cyanide or sodium fluoroacetate ("1080"). If my suggested amendment of section 7(7) is adopted strychnine, hydrogen cyanide and sodium fluoroacetate would not be registerable for use in Oregon and subsection (5) should be deleted. If my suggested amendment of section 7(7) is not adopted then section 32(5) should remain in the bill but should be amended to make these procedures applicable also to thallium sulfate.

Page 33, section 32(7) permits the department to promulgate regulations concerning the reduction, suspension or termination of liability insurance required by section 15 of this Act.

Testimony of Karen Runkel, page 11

If my recommendations concerning section 15(10) are adopted it would not be permissible for a licensee to suspend, reduce or terminate his or her liability insurance and this subsection should be deleted. If my recommendations concerning section 15(10) are not adopted section 32(7) should remain unchanged.

Page 34, section 32(8) permits the department to promulgate regulations governing the deductible clause of the liability insurance required by section 15(11). If my recommendations concerning section 15(11) are adopted it would not be permissible to have a deductible clause in the required liability insurance policy and this subsection should be deleted. If my recommendations concerning section 15(11) are not adopted section 32(8) should remain unchanged.

Page 36, section 34(9) provides that no person shall "Formulate, distribute, sell or use the pesticide known as "1080" (sodium fluoroacetate), or any mixture containing such pesticide, except for the purposes set forth in section 7 of this 1973 Act."

Recommended change: The present subsection (9) should be deleted and the following language substituted: Formulate, distribute, sell or use sodium fluoroacetate ("1080"), strychnine, hydrogen cyanide or thallium sulfate, or any mixture containing such pesticides.

The reasons for this suggested change have been set forth previously, following my recommended changes in section 7(7).

I am Ronald Collins, and I live at 229 N. E. 17th Street
Hillsboro, Oregon. I am a Consulting Entomologist, employed by
fourteen farmers or nurseries in Washington County to survey their
pest problems and make recommendations as to the best method of
control.

The purpose of this hearing is to obtain information on the
implementation of Oregon Senate Bill 106.

I am in general agreement with most provisions of this bill,
however there are several sections which clarification is needed,
or minor changes should be considered. Specifically they are
sections 5, 6, and 9.

Section 5. There is established the Committee on Synthetic
Chemicals in the Environment, consisting of twelve members. Ten
of these members are specified as to what state agency they shall
represent. Two members are to be from the public at large.

Pesticides in part are under the jurisdiction of the Synthetic
Chemicals in the Environment Committee. Farmers are the principal
users of pesticides, and because of this they should have some rep-
resentation on the committee. It is suggested that one of the per-
sons from the public at large should be a farmer.

Section 6. The Committee on Synthetic Chemicals in the
Environment shall be composed of knowledgeable and capable persons
with in Oregon who are experienced with the management and use of
pesticides and other synthetic chemicals.

It is suggested that some clarification be given to the term
synthetic chemicals. What is the scope of the committee to advise
state agencies on synthetic chemicals. It would appear that this
section is somewhat vague and possibly some consideration should
be given by the legislature to "spell out" its intent.

Section 9 part 2a states that before any pesticide can be used for experimental or research purposes a person proposing to use such pesticides shall obtain approval of the department. Application for such approval shall contain such information as may be required by the department, including the location and size of the plot on which the experiment or research is to be carried out, the nature of the pesticide to be utilized, the person responsible for such activities and the intended disposition of any crops upon the experimental or research plot.

During the past year a number of my clients have requested that I conduct research investigations with pesticides for specific problem pests. This has come about because neither the university or private industry is conducting work in these particular areas. A number of problems were solved as a result of these experiments. Many of the pesticides tested on both food and non food crops were with registered materials available on the market. Some of the pesticides were commercial products but not registered for use on the particular crop. A few of the products had no registered uses.

It is only right and proper that all persons, on or off an experiment station, test experimental pesticides safely and with concern for the environment. Such information as location and size of plots; persons responsible for such activities; intended disposition of any crops, are reasonable and prudent regulations. However there may problems requiring detailed nature of some pesticides, particularly in the early stages of testing. Some companies are reluctant to disclose chemistry because of patent considerations. Little is known about the effect of some of the unpatented pesticides, which is one of the reasons why they are being tested.

Recent federal guide lines for pesticide registration are requiring more testing than in past years. How regulations from this section are promulgated is of concern. Certainly research investigators should use careful practices, but regulations should not limit responsible experimentation. This would put Oregon farmers at a disadvantage to those in other states.

February 12, 1973

To: Senator Jason Boe, President of the Senate
Senator Ted Hallock, Chairman of the Senate Committee
on Environment and Land Use

From: Zan Ewing, 1643 S.W. Montgomery St., Portland, Oregon

Re: Senate Bill 106 as it relates to the registration,
application, control and use of hydrogen cyanide, "1080"
(sodium fluoroacetate), and strychnine.

Gentlemen:

While this bill relates to the registration, control and use of all pesticides, this memo is concerned specifically with the use of the above referenced poisons. These pesticides are used primarily for coyote eradication and since ranchers view coyotes as being harmful to their business the bill was logically referred to the Senate Committee on Agriculture and Natural Resources. The poisoning of coyotes has, however, also broader consequences which I believe indicate that it should also be referred to the Senate Committee on Environment and Land Use and I request that it be so referred.

Coyotes live primarily on rodents although they also eat carrion, insects and the eggs of ground nesting birds. They no doubt also kill some sheep and poultry although there is no evidence that livestock of any sort comprises any significant portion of the diet of coyotes. Coyotes are blamed for killing much more livestock than they actually kill. The coyote, like the domestic dog, has a fondness for carrion and will eat the carcass of animals which have died of other causes. If a rancher comes upon the partially eaten carcass, the kill will be attributed to coyotes. In some instances the carcass will have been partially eaten by domestic dogs and the kill will be blamed on coyotes.

I believe that these poisons should be prohibited entirely. If their use is permitted many animals other than coyotes will also be killed. The common method of use of 1080 and strychnine is to liberally dose a dead animal, perhaps a lamb or a turkey and leave it as bait. While this will attract coyotes, it will also attract bald and golden eagles, hawks, owls, crows, vultures, hunter's dogs and any other carrion eating creature.

1080 is particularly destructive since it causes secondary poisoning; that is to say, the animal that eats the bait is killed and any animal which eats that animal is likewise killed. The chain of poisoning continues until the poison has been sufficiently diluted to render it harmless. Dilution may require a series of kills; 1080 is persistent, it is not degraded by the body of the poisoned animal or by time alone, and it is sufficiently poisonous that approximately .005 ounces would kill a 160 pound man. A proportionately smaller dose of course would suffice to kill smaller animals such as eagles or hawks.

February 12, 1975

Representative Pat Whiting
State Capitol Building
Salem, Oregon 97310

Dear Representative Whiting,

We completely support your efforts to halt S. B. 106 which would reintroduce the use of the poisons 1080 and cyanide to control coyotes. Sen. Thorn's bill to establish a \$25 bounty on coyotes is preposterous for reasons given below.

We operate cattle ranches near Arlington and have never, in 25 years, lost one animals to coyotes even though there are a number of them in the area. It has been our observation that cattle and sheep ranchers claim coyote depredation on their stock when in fact, such losses are usually due to poor management and neglect of the cattle or sheep.

Please include this letter in your testimony before the Committee. By copy hereof, Rep. Sumner is advised of our opinion, which is shared by a number of ranchers in this area.

Sincerely,

N. J. Welp
Diane D. Welp

N. J. Welp
Diane D. Welp

cc: Rep. Jack Sumner

*This letter came
to our office - it's a
perfect copy of the original
Please include it in the
testimony on Senate Bill 106.*

GUARANTEED PEST CONTROL SERVICE

3522 Silverton Rd. Salem, Oregon 97303 Phone 362-0781

February 13, 1973

Senator Ted Hallock
Senate, State of Oregon
Capitol Building
Salem, Oregon 97310

Dear Senator Hallock:

Thank you for the courtesy extended to me as a representative of the Oregon Pest Control Operators Association at the hearing on Senate Bill #106.

I am submitting the following as a possible amendment to Senate Bill #106 in the area of defining a pesticide consultant or applicator. "Anyone making structural pest control inspections and expressing an opinion to the absence or presence of wood destroying organisms and their control, be a licensed pesticide applicator or consultant".

Presently, we feel many people unqualified to render proper advice or recommendations are inspecting structures, and this problem could be corrected with the addition of this suggested statement.

We would also appreciate someone from our industry being included on the Committee on Synthetic Chemicals in the Environment. I respectfully submit three names of people for consideration, who have been unselfish in their maintaining high standards within our industry, and would contribute abundantly to the function of this committee.

Lane Duffy, owner - Ardee Pest Control, 4548 N. Albina Ave., Portland, Or.,
Harold Hansen, owner - Xterma Pest Control, 2130 Old Pacific Hwy., Albany, Or.,
Wes Lydell, owner - Guaranteed Pest Control, 3522 Silverton Rd., Salem, Or.

As president of our association, I can assure you we will cooperate with your committee in any direction possible to update pesticide laws necessary for the protection of persons, property, and environment of the State of Oregon.

Sincerely,
Wes Lydell

Wes Lydell, President
Oregon Pest Control Operators Association



MEMBER CHAMBER OF COMMERCE
ORE. PEST CONTROL OPERATORS ASSN.
PACIFIC N. W. PEST CONTROL
OPERATORS ASSN.

GUARANTEED PEST CONTROL SERVICE

3522 Silverton Rd. Salem, Oregon 97303 Phone 362-0781

February 13, 1973

Senator Anthony Meeker
Senate, State of Oregon
Capitol Building
Salem, Oregon 97310

Dear Senator Meeker:

Thank you for the courtesy extended to me as a representative of the Oregon Pest Control Operators Association at the hearing on Senate Bill #106.

I am submitting the following as a possible amendment to Senate Bill #106 in the area of defining a pesticide consultant or applicator. "Anyone making structural pest control inspections and expressing an opinion to the absence or presence of wood destroying organisms and their control, be a licensed pesticide applicator or consultant."

Presently, we feel many people unqualified to render proper advice or recommendations are inspecting structures, and this problem could be corrected with the addition of this suggested statement.

We would also appreciate someone from our industry being included on the Committee on Synthetic Chemicals in the Environment. I respectfully submit three names of people for consideration, who have been unselfish in their maintaining high standards within our industry, and would contribute abundantly to the function of this committee.

Lane Duffy, owner - Ardee Pest Control, 4548 N. Albina Ave., Portland, Or.,
Harold Hansen, owner - Xterma Pest Control, 2130 Old Pacific Hwy., Albany, Or.,
Wes Lydell, owner - Guaranteed Pest Control, 3522 Silverton Rd., Salem, Or.

As president of our association, I can assure you we will cooperate with your committee in any direction possible to update pesticide laws necessary for the protection of persons, property, and environment of the State of Oregon.

Sincerely,



Wes Lydell, President
Oregon Pest Control Operators Association



MEMBER

CHAMBER OF COMMERCE
ORE. PEST CONTROL OPERATORS ASSN.
PACIFIC N. W. PEST CONTROL
OPERATORS ASSN.

GUARANTEED PEST CONTROL SERVICE

3522 Silverton Rd. Salem, Oregon 97303 Phone 362-0781

February 13, 1973

Senator Michael Thorne
Senate, State of Oregon
Capitol Building
Salem, Oregon 97310

Dear Senator Thorne:

Thank you for the courtesy extended to me as a representative of the Oregon Pest Control Operators Association at the hearing on Senate Bill #106.

I am submitting the following as a possible amendment to Senate Bill #106 in the area of defining a pesticide consultant or applicator. "Anyone making structural pest control inspections and expressing an opinion to the absence or presence of wood destroying organisms and their control, be a licensed pesticide applicator or consultant."

Presently, we feel many people unqualified to render proper advice or recommendations are inspecting structures, and this problem could be corrected with the addition of this suggested statement.

We would also appreciate someone from our industry being included on the Committee on Synthetic Chemicals in the Environment. I respectfully submit three names of people for consideration, who have been unselfish in their maintaining high standards within our industry, and would contribute abundantly to the function of this committee.

Lane Duffy, owner - Ardee Pest Control, 4548 Albina Ave. N., Portland, Or.,
Harold Hansen, owner - Xterma Pest Control, 2130 Old Pacific Hwy., Albany, Or.,
Wes Lydell, owner - Guaranteed Pest Control, 3522 Silverton Rd., Salem, Or.

As president of our association, I can assure you we will cooperate with your committee in any direction possible to update pesticide laws necessary for the protection of persons, property, and environment of the State of Oregon.

Sincerely,



Wes Lydell, President
Oregon Pest Control Operators Association



MEMBER

CHAMBER OF COMMERCE
ORE. PEST CONTROL OPERATORS ASSN.
PACIFIC N. W. PEST CONTROL
OPERATORS ASSN.

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ans*



58106
228-6281
OREGON STATE ARCHIVES
S. AG. & NAT. RES. COM.
Home 244-8893

AMERICAN CYANAMID COMPANY
AGRICULTURAL DIVISION
February 13, 1973

ADDRESS REPLY TO

1414 S. W. Stephenson St.
Portland, Oregon 97219

Senator Michael G. Thorne
Chairman, Agriculture and Natural Resources Committee
State Capitol
Salem, Oregon

Dear Senator Thorne:

My thanks to you and your Committee for hearing my testimony yesterday on S. B. 106. As you requested I am sending you a summary of this testimony.

I am a Director of Western Agricultural Chemicals Association; Northwest Legislative Committee Chairman of W.A.C.A.; pesticide sales representative of American Cyanamid Company.

We support the purpose and intent of S.B. 106. We agree with all of the testimony of Mr. Frank Stewart (summary copy was given to each member of your Committee); with the suggestion that one or two farmers be designated members of the Committee on Synthetic Chemicals in the Environment (P. 6, Sec. 5)

- ✓ P. 3, line 11 - - - -pesticide or device with acute oral toxicity rating of LD50 of 50 mg/kg to mammals.
- ✓ P. 3, line 27 - - - -repelling or mitigating any fungus or bacteria.
- ✓ P. 3, line 31 - -repelling or mitigating any insect, spider mites, ticks slugs, snails or symphylians.
- ✓ P. 4, lines 21 - 25. I handed your Committee copies of Washington State pesticide law in which "pest control consultant" is defined. Perhaps this can be used as a guide for rewriting.
- ✓ P. 7, line 8 - - I emphasize Knowledgeable and capable. Some members of the present committee are not.
- ✓ P. 20, (5) - - County Agricultural Extension Agents should not be exempt from examination and licensing as "Pesticide Consultants". Oregon State University Entomologists Joe Capazzi and Robert Robinson agree. Mr. Capazzi was present at the hearing on 2/9 to so testify. See Washington State pesticide law.
- ✓ P. 20, Section 19 - No provision is made for examining and licensing one person in the dealership. Others under his supervision should not be licensed.

Sincerely,

Jack B. Holland
Jack B. Holland

cc: Mr. Frank Stewart
Mr. William Kosesan,

Jack Holland

Pesticide Dealers, Registrants, Applicators, & Consultants
September 22, 1972
Page 2

15.58.030 Definitions.

(23) "Pest control consultant" means any individual who offers or supplies technical advice, supervision or aid or makes recommendations to the user of:

(a) "Highly toxic pesticides" and/or

(b) "Restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or

(c) Any other pesticides except those pesticides in consumer-sized packages no larger than one gallon liquid measure or five pounds dry weight and which are labeled and intended for home and garden use only and except fertilizer-pesticide mixes when distributed in packages of fifty pounds or less for home and garden use only.

15.58.210 Pest control consultant license—Fee—Exemptions. No individual shall perform services as a pest control consultant after February 28, 1973, without first obtaining from the director an annual license which shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of ten dollars: *Provided*, That licensed pesticide applicators and operators; employees of federal, state, county, or municipal agencies when acting in their official capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet, shall be exempt from this licensing provision.

15.58.220 Public pest control consultant license—Nonfee—Exemptions. For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW 15.58.030 (23). No person shall act as public pest control consultant on or after February 28, 1973 without first obtaining an annual nonfee license from the director which shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director: *Provided*, That federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or his duly authorized representative, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

15.58.230 Examination and license for consultants—Fee. The director shall require each applicant for a pest control consultant's license or a public pest control consultant's license to demonstrate to the director the applicant's knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination for the classifications for which he has applied prior to issuing his license. An examination fee of five dollars shall be charged when an examination is requested at other than a regularly scheduled examination date.

15.58.240 Classified licenses — Limitations—Examinations—Fee—Renewal. The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license he shall be limited to practicing within these classifications. Each such classification shall be subject to separate testing procedures and requirements: *Provided*, That no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to re-examination when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

Pesticide Dealers, Registrants,
Applicators, & Consultants
September 22, 1972
Page 2

15.58.030 Definitions.

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- (b) "Restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or
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15.58.240 Classified licenses — Limitations—Examinations—Fee—Renewal. The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license he shall be limited to practicing within these classifications. Each such classification shall be subject to separate testing procedures and requirements: *Provided*, That no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to re-examination when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.



INTERNATIONAL PESTICIDE APPLICATORS INC.

OREGON CHAPTER

P. O. BOX 373

CLACKAMAS, OREGON 97015

THE INTERNATIONAL VOICE OF THE PROFESSIONAL PESTICIDE APPLICATOR

February 13, 1973

Senator Michael Thorne
Committee on Agriculture/Natural Resources
State Senate Offices-403 State Capitol Bldg.
Salem, Oregon 97301

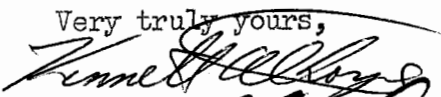
Dear Sir:

As follow-up to our testimony yesterday, 2/12/73, before your committee, we want to reiterate briefly for your convenience our position on Senate Bill 106. We are in favor of the Bill in its principle and basic form but would respectfully request two important changes. These are as follows:

- 1) Section 5 (page 6, line 8). The committee formulated in this section ought to be altered in its composition to include "One member from the field of professional pesticide application (non-public)". The change in composition could, in our opinion, be accomplished by either reducing point (b) to two or point (h) to one. Further, in this connection, we favor the inclusion of a professional farmer, so defined, on the committee, which could be accomplished as well as described above. It is our most sincere belief that the true purpose and concept of this committee (see Section 6 (1)) as proposed "of knowledgeable and capable ... who are experienced with the management and use of pesticides and other synthetic chemicals", can truly best be served by these changes, but most particularly by the inclusion of the professional applicator (operator).
- 2) Section 22 (page 23, line 5). We feel, as we have for many years, that the man who is a professional farmer ought to come under the full licensing provision of the applicator law, where he obviously uses a considerable amount of pesticides a year (even though on his own property), not merely when he uses the "restricted" chemicals as the Bill now reads. Other, less toxic, chemicals can still be misused and cause harm to persons and the environment. The amount (minimum) used per year, set in the statute, could be the criterion (perhaps 10 lbs.). We again ask that this provision be put into the applicator law.

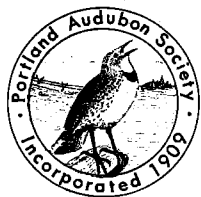
We are in general agreement with the rest of the Bill as written, after discussions with the Department regarding their attitudes toward regulatory authority provided in the Bill. Thank you very much for your consideration in this matter.

Very truly yours,


Kenneth A. Thorpe, President


William L. Owen, Legislative Chairman

Enc. cc/Committee members.



PORTLAND AUDUBON SOCIETY

A Branch of National Audubon Society

PHONE 292-6855

5151 NORTHWEST CORNELL ROAD

PORTLAND, OREGON 97210

February 19, 1973

The Honorable Michael Thorne
Chairman, Agriculture and
Natural Resource Committee
State Capitol Building
Salem, Oregon 97310

Dear Senator Thorne:

We respectfully request that your Committee amend Senate Bill 106 to prohibit the use of the highly toxic chemicals 1080, strychnine, cyanide, thallium sulfate for predator control.

These chemicals were eliminated for private use in a 1972 directive from the Environmental Protection Agency and we believe it in the best interests to the health and safety of the people of Oregon that their use be eliminated on all state lands.

Sincerely,

Judie Irons (Mrs. Harry D.)
Chairman, Conservation

PLEASE REPLY TO:
6420 S. E. 32nd Avenue
Portland, Oregon 97202

cc: Senators Ouderkirk, Hallock, Hartung, Heard, Howard and Meeker



WASCO COUNTY WHEAT GROWERS ASSOCIATION

P. O. Box 821

The Dalles, Oregon 97058

February 19, 1973

Senator Ken Jernstedt
State Capitol
Salem, Oregon

Dear Senator Jernstedt:

We have briefly reviewed the Oregon Senate Bills 106 and 107 relating to application, registration, control, and use of pesticides in Oregon. Considerable review of this legislation by agriculture people certainly would be desirable before its passage.

One specific point in the proposed legislation which needs correction concerns Section 5 of SB 106 dealing with establishment of a committee on synthetic chemicals in the environment. Agriculture is one of the main users of these materials, but they are not represented on the committee. This needs to be corrected. There may be other similar points. Also, what are the implications of SB 106 in relation to proposed Federal legislation along these lines?

We firmly believe there is too much legislation passed without adequately informing the people of the state as to its purpose and how it will influence their operations. This particular legislation would be a point in case. It would seem that the Committee on Agriculture and Natural Resources or the State Department of Agriculture should hold meetings in the State to discuss proposed legislation and have an opportunity for response from agriculture people. It just isn't possible in so short a time for agriculture people to move to Salem to attend hearings or even speak on legislation when they are unfamiliar with its implications.

To use a specific case in point, please note the enclosed letter. Wasco County Extension Agent Thomas W. Thompson requested an outline of the proposed Oregon Pesticide Control Act last fall prior to fall County and State Wheat League meetings. This request was acknowledged October 31 by W. H. Kosesan of the State Department of Agriculture, but no information was mailed until February 2, 1973. We understand a hearing was held four days later on the legislation.

If this is all the time for local study and input into proposed legislation, our democratic process will not long survive.

Very truly yours,

Wayne Ryan

Wayne Ryan
President

enclosure

cc: Paul Walden
Earl Pryor
Larry Coppock
✓ Mike Thorne

*Affiliated with Oregon Wheat Growers League
Pendleton, Oregon*

Corresp
K



STATE DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDING • • SALEM, OREGON • • 97310

TOM McCALL
GOVERNOR

February 2, 1973

Mr. Thomas W. Thompson
County Extension Agent
Courthouse Annex
P. O. Box 821
The Dalles, OR 97058

Dear Tommy:

In response to your letter of October 31, 1972, I am enclosing a copy of Senate Bill 106, the Oregon Pesticide Control Act which has now been introduced to the 1973 Legislature.

I am also enclosing two additional copies of the bill as you requested for Mr. Earl Pryor, Chairman of the Legislative Committee of the Oregon Wheat Growers League, and John Welbes, Executive Vice President of the League.

Sincerely,

Bill

W. H. KOESAN, Ass't Chief
Plant Division

bb
Enclosures



OREGON STATE ARCHIVES 58106
709 N.W. Monroe Dr.
Covallis Or. 97330
Feb. 20, 1973

S. AG. & NAT. RES. COM.

Michael Thorne, Chairman
Senate Agriculture + Nat Resource Committee
State Capitol Building
Salem, Or. 97310

Dear Sir;

I urge the committee to amend
Senate Bill 106 to prohibit use of
the highly toxic chemicals - 1080,
Strychnine, Cyanide, Thallium Sulfate for
predator control in Oregon.

These chemicals are so dangerous +
non-selective and the effects extend to
other animals not the prime targets.
Have read too many stories of cats
being killed by them and some
humans from the cyanide baits.

Sincerely,

Mrs. Lucille D. Bambridge

No reply necessary

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
STANDARD OIL BUILDING
225 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 421-6133
AREA CODE 415

TELEX 34743
CABLE ADDRESS "EVANS"

February 21, 1973

Oregon Legislation - 1973
S.B. 106
Pesticides

William H. Hedlund, Esq.
Post Office Box 1025
Salem, Oregon 92705

Dear Bill:

This one revises Oregon law regarding the application, registration, control and use of pesticides in Oregon. I understand that this is desirable. However, our client's chemical people believe that closer attention to Federal law and to the Model State Pesticide Control Act should be paid.

Here is a copy of a lengthy letter explaining the bill for WACA. This may be of some help to you. Also, maybe WACA has more information.

Sincerely yours,

Robert F. Miller
for
Pillsbury, Madison & Sutro

Enc.

- cc: Mr. C. R. Boyd w/enc.
- Mr. R. W. Curtis w/enc.
- Mr. D. C. Gregg w/enc.
- Mr. J. T. Lamb w/enc.
- Mr. C. D. Walz, Jr. w/enc.
- Mr. R. E. Friedman w/enc.
- Mr. V. V. McGrew w/enc.
- Mr. W. R. Gardner w/enc.
- Mr. M. W. Newby, Jr. w/enc.
- Dr. O. J. Gibson w/enc.

February 2, 1973

Mr. Jack B. Holland
1414 S. W. Stephenson St.
Portland, Oregon 97219

Dear Jack:

I have the following comments and/or questions on Oregon SB106, the Pesticide Control Act. Many of these maybe insignificant but others maybe more important.

Section 3 (6). "Highly toxic" should be much more clearly defined. Most states use the LD50 figure of 50mg/kg or less for this category. The Model State Pesticide Control Act which reads that in making this determination the Director is to be guided by the Federal definition. The Oregon bill makes no reference to anything, as a result almost anything could be interpreted as "capable of causing severe injury, disease or death to human beings."

Section 3 (c) & (e) should have a clearer definition. If a fungicide means - any fungus, what about bacteria disease control (fire blight). There is no mention of any plant disease except fungi. Someone with a product label just for a bacterial disease could market the product without registering it in the state.

The same is true under insecticides. What about mites or ticks, neither of which is an insect? Where do slugs, snails and symphylids go? It would appear that products designed specifically for the control of these organisms may be excluded from this law.

Possibly such items maybe included under (h), but it seems strange that the Director would be required to designate each of these organisms as a pest rather than having them covered by the law. I feel the entire section 3 should be closely reviewed and that the definitions in the Model bill be used as a guide.

Spray adjuvants are not included in this law. I have no objection in omitting them, but I wonder if that is the intent of this bill.

Section 7 (4). The new law sets the requirements for labeling. The Oregon law should conform to those requirements.

Section 7 (5). Forty dollars appears to be an unnecessary high cost for product registration. Only California has a fee that high.

Section 7 (6)(d). It would appear to me this entire part could be deleted as unnecessary, redundant, and unclear. I would suggest Section 9 of the Model bill be used as a guide for this section.

Section 9 (1). EPA law outlines experimental uses. The Oregon bill should conform to that.

Section 13 (1). The words "poisonous or deleterious pesticide" are used, but there is no definition of what those are. This entire section seems questionable.

Section 15 (12) excludes certain agencies from the licensing requirement. This was a mistake Idaho made with their law. The year after their new law went into effect amendments were made to include these agencies. I feel they should be included in the licensing program.

Section 19 (2) (b). This group should be licensed, see above.

Section 19 (2) (c). This could get into the garden and home trade. Such products should be excluded. A statement such as "except such products specifically labelled for garden and home use." Or some similar statement that would exclude specific garden and home products that maybe in bags of 50 or 55 pounds.

Section 20 (2). The Federal law may not require a written examination. The state should follow EPA recommendations in this area of testing and licensing.

Section 23 (1). This would give authority to sample pesticides in your home or other private property. This statement is far too broad and too ambiguous. It should more clearly define what is meant. Suggest the EPA law be followed.

I noticed a definite lack of the mention of public hearings to establish regulations pertaining to much of this law. I would again suggest the Model bill be considered in this area.

I also question the variation in fees for a pesticide consultant (\$20), pesticide applicator (\$10), and farmer applicator (\$7.50). It seems that the same amount of time and expense are involved and that all fees should be the same.

Mr. Jack B. Holland

- 3 -

February 2, 1973

I am sure there are other areas that need to be questioned in this bill. You will probably receive other comments from various people. The above should give your committee a place to start on this bill.

Sincerely,

LH:ac

cc: Mr. Ivan Smith - WACA

SB106 44
Kosman A
3/1/73
Adopted
3/1/73
OREGON STATE ARCHIVES
AG. & NAT. RES. COM.

SENATE AMENDMENTS TO

SENATE BILL 106

By Agriculture and Natural Resources Committee

On page 2 of the printed bill, line 19, delete "formulate" and insert "formulation".

On page 13, line 13, after the second "or" insert "renewal".

On page 14, line 10, delete "license" and insert "licensee".

On page 31, line 28, delete "Order" and insert "order".

In line 29, delete "Order" and insert "order".

On page 34, line 25, between "restricted" and "use" insert a hyphen.

March 1, 1973

PROPOSED SENATE AMENDMENTS TO

SENATE BILL 106

BY COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

On page 22 of the printed bill, line 25, after "(3)" insert "Except as otherwise provided in Section 15 of this 1973 Act:".

On page 22, line 31, after "pesticides" insert "with power driven application equipment or devices".

On page 25, line 5, after "area" insert "or restricted area".

On page 25, line 6, after "area" insert "or restricted area".

On page 25, line 7, after the comma insert "or a restricted area established pursuant to ORS 573.537 and in effect June 1, 1973," and in the same line after "area" insert "or restricted area".

On page 25, line 8, after "area" insert "or restricted area".

On page 25, line 10, after "area" insert "or restricted area".

On page 25, line 12, after "area" insert "or restricted area".

On page 37, line 7, after "pesticide" delete "application" and insert "applicators'" and in the same line after "apparatus," delete "devices" and insert "machinery".

3/1/73 "C"
Kozlosan 46
SB106
Adopted
3/1/73
OREGON STATE ARCHIVES
AG. & NAT. RES. COM.

PROPOSED SENATE AMENDMENTS TO

SENATE BILL 106

BY COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

On page 3 of the printed bill, line 7, delete "Farmer" and insert "Private".

In line 10, after "ties" insert "or ^{forest cops} timber".

On page 4, line 21, after "person" insert a comma and "including governmental employes,".

On page 9, delete lines 4 through 16.

In line 17, delete "(8)" and insert "(7)".

On page 12, line 21, delete "farmer" and insert "private".

In line 27, delete "farmer" and insert "private".

On page 13, line 7 after "operator" delete the comma and insert "or" and in the same line delete "or farmer applicator,".

In line 9, after "applicator" delete the comma.

In line 10, delete "farmer applicator".

In line 11, after "operator" delete the comma and insert "or" and in the same line delete "or farmer applicator".

In line 17, after "consultant" delete the comma and insert "or" and in the same line delete "or farmer appli-".

In line 18, delete "cator".

In line 20, after "consultant" delete the comma and insert "or" and in the same line delete "or farmer applicator".

In line 28, after "applicator" delete the comma and "farmer applicator".

On page 20, line 19, after "applicators" delete the comma and insert "or".

In line 20, after "tors" insert a period and delete the rest of the line. Delete lines 21 and 22.

On page 21, delete lines 3 through 28 and insert:

"Section 20. (1) The department shall issue or renew its private applicator's certificate if the applicant or certificate holder meets the certification standards established by the department pursuant to subsection (5) of Section 32 of this 1973 Act.

"(2) No fee shall be assessed for a private applicator's certificate, or renewal thereof."

On page 33, @ 8 "or" / v "shall"

On page 33, delete lines 15 through 20 and insert:

"Note: Subsection (5) was deleted by amendment."

In line 21, after "consultant" delete the comma and insert "or" and in the same line after "applicator" delete "or".

In line 22, delete "farmer applicator".

On page 34, line 13,

On page 34, Line 4 delete "farmer" & insert "private".
after "consultants" delete the comma and insert "or" & in the same line delete "or farmer applicator"

On page 34, after line 27, insert:

"(15) Establish and maintain a system for certification of private applicators. In this regard, the department may take into consideration:

"(a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat 973, and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135 Et. Seq., as amended thereby, and regulations thereunder.

"(b) Minimum periods of experience required and types of experience, education or work acceptable.

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

On page 37, delete lines 14 through 16 and insert: "Note: Subsection (9) was deleted by amendment."

On page 37, line 27, delete "license" and insert "certificate".

On page 38, line 1, after "crops" insert "or timber".

In line 2, delete "farmer applicator license" and insert "private applicator certificate".

Sections 24-200 through 24-209 of the Act pertain.

As a result, the members of the NWOTA believe that they are already more than amply regulated with respect to application of chemicals.

Herbicides used in Christmas tree operations are Atrazine, Simazine, ^{Dalapon} Amitrol & Amitrol T all practically non toxic and 2,4-D, 2,4,5-T and paraquat, each either slightly or moderately toxic.

Pesticides used are chlordane, diazinon, malathion, and thiodan all of which are classed as "less" or "least dangerous".

Fungicides commonly used for rust control are copper based compounds of the Bordeaux category, all of which are classed as safe and of very low toxicity.

The foregoing data as to toxicity and danger are contained in the 1972 Handbooks on Insect, Weed and Plant Disease Control published by the Extension Service of Oregon State University.

In general then, Christmas tree growers are using relatively low toxicity chemicals of minimal danger to anyone or anything except the pest the chemicals are designed to eliminate.

As a result it does not seem reasonable to require that Christmas tree plantation owners be licensed as farmer applicators. As we see it the license fee proposed would give us the privilege of taking an examination to qualify us to apply chemicals of a relatively harmless nature. And that's all the fee would provide. We believe the Forest Practices Act more than covers our situation already. Further, we are concerned that Federal and State agencies, and lawn and garden caretakers are exempt from complying with the provisions of this Act. If one: why not all? Employees of State and Federal agencies who apply chemicals are no more nor ~~no~~ less knowledgeable than others.

Some of my associates engaged in Christmas tree growing have gone so far as to express the view that the provisions of

section 20 of the Bill are an additional harrassment of the farmer.

Now if I may, I would like to point out some other areas of concern in the proposed bill.

Section 22, paragraph 4 apparently gives a farmer the right to apply pesticides to his neighbors land without the need for a license. If such is the case why is he prohibited from treating his own land? Or why cannot two neighbors get together and treat each others land?

In the same section, paragraph 7 gives railroads a special exemption. The rationale behind that is difficult to fathom in view of the approach taken toward farmers.

Now I would like to address myself to the subject of protected and restricted areas as embodied in sections 24 through 31 of the Bill.

In section 25 the Bill gives 25 or more landowners or the owners of more than 70 percent of the land situated within a particular territory the right to petition that ^{the} region in which they reside be set aside as a protected or restricted area. As I understand the Bill if such a restricted area were established only certain or no pesticides could be used.

I'd like to cite a hypothetical case or two to illustrate how this could result in the elimination of a farm or tree plantation operation.

The Silverton Hills where I reside is exploding as far as population is concerned. This is borne out by the fact that our grade school enrollment has jumped 50% in the past two years. In the Silverton Hills there are grass seed, strawberry, and tree farms. All of these operations require the use of pesticides, as defined in the Bill, at various times. Many of the new residents of the area have migrated to "our wilderness" from urban areas. Twenty five of these individual landowners with a minority of the

land owned could band together from say the defined school district or rural fire protection district, complete the necessary petition, win their case before the Department of Agriculture and drive everyone of the farmers in the area to the wall.

Let me cite another instance. One of the larger Christmas tree growers in Clackamas County has recently seen construction of a large trailer court in his immediate vicinity. He has also watched as more and more small landowners moved in to get out of the city. He could, under the provisions of Section 25 of this Bill be prevented from using the pesticides required to continue to operate his plantation.

Perhaps neither of these cases will come to pass. But the danger to the farmer is there and he, the farmer, would have little or no recourse. As we see it, twenty five landowners with 25 to 50 acres could shut down the farming operations of individuals who earn their livelihood from the cultivation of thousands of acres.

In conclusion, the NWOTA sees merit in ^{the} licensing of commercial pesticide applicators. It sees little worth in the licensing of farmers. Further, we of the Christmas tree industry are already regulated by the Forest Practices Act and this Bill, if enacted, would necessitate that we respond to two sets of regulations. We Christmas tree growers use pesticides of low or relatively low toxicity levels; therefore, we see little need for licensing our pesticide operations.

Thank you for the opportunity to appear before you.

SB 106 54
Leg.

ANALYST: Batties/Jacobson DATE COMPLETED: February 22, 1973

1. Number of Measure SB 106	2. Status Original Bill	3. Class of Bill Fiscal Non-Fiscal Organizational <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
4. Subject Control of use of pesticides; creation of Committee on Synthetic Chemicals in Environment				
5. Government Unit or Program Affected Department of Agriculture				

6. Fiscal Impact

Effect on Revenue

The proposed legislation will increase revenue received by the Department of Agriculture from license and registration fees for the 1973-75 biennium by \$80,723.

Effect on Expenditures

SB 106 will increase Other Funds expenditures for the Department of Agriculture for the 1973-75 biennium by \$80,723 for inspection and regulation of pesticides.

These increased revenues and expenditures are included in the 1973-75 Governor's Recommended Budget as a means of reducing General Fund support for the program.

Discussion

SB 106 establishes three new license categories and increases license and registration fee rates.

RB:sc

Reviewed by Legislative Fiscal Office.

Analyst: Simmons
Date: March 5, 1973

CYANAMID

AMERICAN CYANAMID COMPANY
AGRICULTURAL DIVISION

March 5, 1973

ADDRESS REPLY TO

1414 S. W. Stephenson St.
Portland, Oregon 97219Senator Anthony Meeker
State Capitol
Salem, Oregon

Dear Senator Meeker:

Thank you for hearing my testimony of March 1 before your Subcommittee on S. B. 106.

Enclosed is a copy of my letter of February 13 to Senator Thorne; summary of Mr. Frank Stewart's testimony of February 12. We trust that the points covered by Mr. Stewart and me are in your "active file" and will receive favorable consideration.

Sincerely,

*Jack B. Holland*Jack B. Holland
Chairman, Northwest
Legislative Committee
Western Agricultural Chemicals
Association

cc: Mr. Frank Stewart

February 13, 1973

1414 S. W. Stephenson St.
Portland, Oregon 97219

Senator Michael G. Thorne
Chairman, Agriculture and Natural Resources Committee
State Capitol
Salem, Oregon

Dear Senator Thorne:

My thanks to you and your Committee for hearing my testimony yesterday on S. B. 106. As you requested I am sending you a summary of this testimony.

I am a Director of Western Agricultural Chemicals Association; Northwest Legislative Committee Chairman of W.A.C.A.; pesticide sales representative of American Cyanamid Company.

We support the purpose and intent of S.B. 106. We agree with all of the testimony of Mr. Frank Stewart (summary copy was given to each member of your Committee); with the suggestion that one or two farmers be designated members of the Committee on Synthetic Chemicals in the Environment (P. 6, Sec. 5)

P. 3, line 11 - - - -pesticide or device with acute oral toxicity rating LD50 of 50 mg/kg to mammals.

P. 3, line 27 - - - -repelling or mitigating any fungus or bacteria.

P. 3, line 31 - -repelling or mitigating any insect, spider mites, ticks, slugs, snails or arachnids.

P. 4, lines 21 - 25. I handed your Committee copies of Washington State pesticide law in which "pest control consultant" is defined. Perhaps this can be used as a guide for rewriting.

P. 7, line 8 - - I emphasize knowledgeable and capable. Some members of the present committee are not.

P. 20, (5) - - County Agricultural Extension Agents should not be exempt from examination and licensing as "Pesticide Consultants". Oregon State University Entomologists Joe Capuzzi and Robert Robinson agree. Mr. Capuzzi was present at the hearing on 2/9 to so testify. See Washington State pesticide law.

P. 20, Section 19 - No provision is made for examining and licensing one person in the dealership. Others under his supervision should not be licensed.

Sincerely,

cc: Mr. Frank Stewart
Mr. William Keenan,

Jack B. Holland

Pesticide Dealers, Registrants,
Applicators, & Consultants
September 22, 1972
Page 2

15.58.030 Definitions.

(23) "Pest control consultant" means any individual who offers or supplies technical advice, supervision or aid or makes recommendations to the user of:

- (a) "Highly toxic pesticides" and/or
- (b) "Restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or
- (c) Any other pesticides except those pesticides in consumer-sized packages no larger than one gallon liquid measure or five pounds dry weight and which are labeled and intended for home and garden use only and except fertilizer-pesticide mixes when distributed in packages of fifty pounds or less for home and garden use only.

15.58.210 Pest control consultant license—Fee—Exemptions. No individual shall perform services as a pest control consultant after February 28, 1973, without first obtaining from the director an annual license which shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director and shall be accompanied by a fee of ten dollars: *Provided*, That licensed pesticide applicators and operators; employees of federal, state, county, or municipal agencies when acting in their official capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet, shall be exempt from this licensing provision.

15.58.220 Public pest control consultant license—Nonfee—Exemptions. For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant as defined in RCW 15.58.030 (23). No person shall act as public pest control consultant on or after February 28, 1973 without first obtaining an annual nonfee license from the director which shall expire on the final day of February of each year. Application for a license shall be on a form prescribed by the director: *Provided*, That federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or his duly authorized representative, and public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

15.58.230 Examination and license for consultants—Fee. The director shall require each applicant for a pest control consultant's license or a public pest control consultant's license to demonstrate to the director the applicant's knowledge of pesticide laws and regulations; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination for the classifications for which he has applied prior to issuing his license. An examination fee of five dollars shall be charged when an examination is requested at other than a regularly scheduled examination date.

15.58.240 Classified licenses — Limitations—Examinations—Fee—Renewal. The director may classify licenses to be issued under the provisions of this chapter. Such classifications may include but not be limited to agricultural crops, ornamentals, or noncrop land herbicides. If the licensee has a classified license he shall be limited to practicing within these classifications. Each such classification shall be subject to separate testing procedures and requirements: *Provided*, That no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section. The director may renew any applicant's license under the classification for which the applicant is licensed, subject to re-examination when deemed necessary because new knowledge or new classifications are required to carry out the responsibilities of the licensee.

*Washington State
Pesticide Law*

S B 106

Under "Registration, Sale & Use" Section 7 (1), Page 7, beginning line 23, it is stated that every brand and each formula or formulation there-under of pesticide manufactured, -- etc. -- shall be registered each year with the dept. Sub section (5) Page 8, beginning line 10, it is stated that - the application for registration shall be accompanied by a registration fee to be established by the dept. -- etc. -- which shall not exceed 40.00 -- etc.

It is understood that under ORS Chapter 183, Administrative Procedures, that change in registration fee can only be made after public hearing.

In keeping with the above, we propose that various sections of SB 106 be amended so that the license and certification fees be changed to read so that the fee is established by the dept. and shall not exceed "X" amount. The sections involved are:

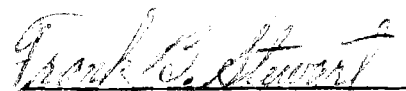
- Section 15 (3) (a) Page 14 Pesticide Operators License
- Section 15 (14) (a) Page 17 Public Applicator License
- Section 15 (14) (a) Page 17 Public Trainee Certificate
- Sections 16 (4) (a) & (b) Page 18 Pesticide Applicator License
- Section 18 (1) Page 19 Pesticide Consultant License
- Section 19 (1) Page 20 Pesticide Dealer License
- Section 20 (1) Page 21 Pesticide Farmer Applicator License

I was impressed with the proposal for the Motor Vehicle Division that Registration be changed to a 4 year period so as to reduce the administrative burden and costs of the annual registration.

In keeping with the above, we propose that to reduce the administrative burden on the dept., that licenses and certificates be issued on a multi-year bases with annual notification by the individuals that they will continue to operate under the license or certificate. At the end of the multi-year period re-examination may be required. These people are professional contrary to some opinion.

The enforcement burden of the new Federal Environmental Pesticide Control Act (FEPCA) is being thrown on the various States without funding, in so far as can be determined. We are not in agreement that the State should carry the enforcement provisions without Federal funding.

We are sympathetic that the dept. need funds, but believe that the Registration and License fees proposed are for enforcing FEPCA, are excessive as proposed and an added burden on Oregon's Agriculture and must be established only after Public Hearings and with the least additional Administrative burden on the Department of Agriculture.



Frank B. Stewart
Vice President
The Chas. H. Lilly Co.

Member of Committee on Synthetic Chemicals in the Environment
Past President - Western Agricultural Chemicals Assn.
Past Director - National Agricultural Chemicals Assn.



OREGON AUTOMOBILE INSURANCE COMPANY

NORTH PACIFIC INSURANCE COMPANY

501 COMMONWEALTH BUILDING · PORTLAND, OREGON 97204 · TELEPHONE (503) 224-3600

March 7, 1973

Senate Committee on Agriculture
& Natural Resources
Legislative Assembly
State Capitol
Salem, Oregon 97310

RE: SENATE BILL No. 106

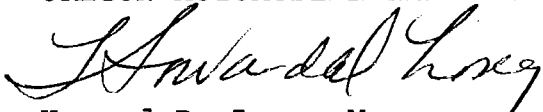
Gentlemen:

I should like to call to your attention what may be an ambiguity in the provisions of the referenced Bill. On page 28, Section 2 (b) the wording reads (A) "...provide for surety bonds for all persons entrusted with funds or property of the protected area...". Should the term remain "surety" or would the section be less ambiguous if the word "fidelity" were substituted for the word "surety"?

I call this to your attention merely for clarification purposes.

Very truly yours,

OREGON AUTOMOBILE INSURANCE COMPANY



Howard D. Long, Manager
Fidelity & Surety Dept.

HDL/lm

Juni Corlitt (A)
3/8/73 SB106 61

S. AG. & NAT. RES. COM.
OREGON STATE ARCHIVES

PROPOSED AMENDMENTS TO SENATE BILL 106

On page 3 of the printed bill, line 10 after ties insert, "or forest crops."

On page 6, line 13 after (b), delete entire sentence and insert "one member shall be appointed from the State Forestry Department, one member from the State Game Commission and one member from the State Department of Geology and Mineral Industries."

On page 23, line 5 after farmer, insert "or forest landowner"

On page 25, line 15 delete, "or the owners of more than" and insert "representing at least"

On page 27, line 33 after period, insert "All legal voters within the boundaries of the territory as determined by the department are eligible to vote in the referendum."

On page 30, following line 25, insert: "(d) In the event that a restricted area is established pursuant to subsection (1) of this section, the area committee shall be expanded to include one additional member who resides in the restricted area, but outside of the protected area. The additional member shall be elected in accordance with Section 27 of this 1973 Act."

PROPOSED SENATE AMENDMENTS TO
SENATE BILL 106

On page 14 of the printed bill, line 16, after "fee" delete "is \$35" and insert "shall be established by the department not to exceed \$40".

In line 17, after "and" insert "not to exceed \$15".

In line 18, delete "\$10".

In line 22, after "class" delete "is \$15" and insert "shall be established by the department not to exceed \$20".

On page 17, line 5, after "fee" delete "of \$7.50" and insert "to be established by the department not to exceed \$10,".

On page 18, line 23, after "fee" delete "is \$10" and insert "shall be established by the department not to exceed \$15".

In line 24 after "and" insert "not to exceed \$7.50".

In line 25, delete "\$5".

In line 30, after "class" delete "is \$10" and insert "shall be established by the department not to exceed \$12.50".

On page 19, line 31, after "be" insert "established by the department not to exceed".

On page 20, line 24, after "be" insert "established by the department not to exceed".

On page 27, line 33, after "of the department." insert "All legal voters within the boundaries of the protected area are eligible to vote."

SENATE AMENDMENTS TO
SENATE BILL 106

On page 2 of the printed bill, line 19, delete "formulate" and insert "formulation".

On page 3, line 7, delete "Farmer" and insert "Private".

In line 10 after "ties" insert "or forest crops".

On page 4, line 21, after "person" insert a comma and "including governmental employes,".

On page 6, line 13 after "(b)" delete the rest of the line and delete line 14 and insert "One member shall be appointed from the State Forestry Department, one member from the State Game Commission and one member from the State Department of Geology and Mineral Industries.".

In line 15 delete "State Board of Health" and insert "Health Division, Department of Human Resources".

On page 9, delete lines 4 through 16.

In line 17, delete "(8)" and insert "(7)".

On page 12, line 21, delete "farmer" and insert "private".

In line 27, delete "farmer" and insert "private".

On page 13, line 7, after "operator" delete the comma and insert "or" and in the same line delete "or farmer applicator,".

In line 9, after "applicator" delete the comma.

In line 10, delete "farmer applicator".

In line 11, after "operator" delete the comma and insert "or" and in the same line delete "or farmer applicator".

In line 13, after the second "or" insert "renewal".

In line 17, after "consultant" delete the comma and insert "or" and in the same line delete "or farmer appli-".

In line 18, delete "cator".

In line 20, after "consultant" delete the comma and insert "or" and in the same line delete "or farmer applicator".

In line 28, after "applicator" delete the comma and "farmer applicator".

On page 14, line 10, delete "license" and insert "licensee".

In line 16, after "fee" delete "is \$35" and insert "shall be established by the department not to exceed \$40".

In line 17, after "and" insert "not to exceed \$15".

In line 18, delete "\$10".

In line 22, after "class" delete "is \$15" and insert "shall be established by the department not to exceed \$20".

On page 17, line 5, after "fee" delete "of \$7.50" and insert "to be established by the department not to exceed \$10,".

On page 18, line 23, after "fee" delete "is \$10" and insert "shall be established by the department not to exceed \$15".

In line 24, after "and" insert "not to exceed \$7.50".

In line 25, delete "\$5".

In line 30, after "class" delete "is \$10" and insert "shall be established by the department not to exceed \$12.50".

On page 19, line 31, after "be" insert "established by the department not to exceed".

On page 20, line 19, after "applicators" delete the comma and insert "or".

In line 20, after "tors" insert a period and delete the rest of the line. Delete lines 21 and 22.

In line 24, after "be" insert "established by the department not to exceed".

On page 21, delete lines 3 through 28 and insert:

"Section 20. (1) The department shall issue or renew its private applicator's certificate if the applicant or certificate holder meets the certification standards established by the department pursuant to subsection (15) of Section 32 of this 1973 Act.

"(2) No fee shall be assessed for a private applicator's certificate or renewal thereof."

On page 22, line 25, after "(3)" insert "Except as otherwise provided in Section 15 of this 1973 Act:".

In line 31, after "pesticides" insert "with power driven application equipment or devices".

On page 23, line 5, after "farmer" insert "or forest landowner".

On page 25, line 5, after "area" insert "or restricted area".

In line 6, after "area" insert "or restricted area".

In line 7, after the comma insert "or a restricted area established pursuant to ORS 573.537 and in effect June 1, 1973," and in the same line after "area" insert "or restricted area".

In line 8, after "area" insert "or restricted area".

In line 10, after "area" insert "or restricted area".

In line 12, after "area" insert "or restricted area".

In line 15, delete "or the owners of more than" and insert "representing at least".

On page 27, line 33, after the period insert "All legal voters within the boundaries of the territory as determined by the department are eligible to vote in the referendum."

On page 30, following line 25, insert: "(d) In the event that a restricted area is established pursuant to subsection (1) of this section, the area committee shall be expanded to include one additional member who resides in the restricted area, but outside of the protected area. The additional member shall be elected in accordance with Section 27 of this 1973 Act."

In line 27, delete "or the owners of more than" and insert "representing at least".

On page 31, line 28, delete "Order" and insert "order".

In line 29, delete "Order" and insert "order".

On page 33, line 8, delete "may" and insert "shall".

Delete lines 15 through 20 and insert:

"Note: Subsection (5) was deleted by amendment."

In line 21, after "consultant" delete the comma and insert "or" and in the same line after "applicator" delete "or".

In line 22, delete "farmer applicator".

On page 34, line 4, delete "farmer" and insert "private".

In line 13, after "consultants" delete the comma and insert "or" and in the same line delete "or farmer applicator".

In line 25, between "restricted" and "use" insert a hyphen.

After line 27, insert:

"(15) Establish and maintain a system for certification of private applicators. In this regard, the department may take into consideration:

"(a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat 973, and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 135 Et. Seq., as amended thereby, and regulations thereunder.

"(b) Minimum periods of experience required and types of experience, education or work acceptable.

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

On page 37, line 7, after "pesticide" delete "application" and insert "applicators'" and in the same line after "apparatus," delete "devices" and insert "machinery".

Delete lines 14 through 16 and insert:

"Note: Subsection (9) was deleted by amendment."

In line 27, delete "license" and insert "certificate".

On page 38, line 1, after "agricultural" insert a comma and delete "or" and in the same line after "horticultural" insert "or forest".

In line 2, delete "farmer applicator license" and insert "private applicator certificate".

Rt 2 B490

Bend, Ore. 97701

March 15, 1973

Sen. Michael Thorne
Sen. Agr. & Nat. Res. Comm.
Salem, Oregon

Dear Mr. Chairman & Committee members:

Re: SB 106 - oppose

We are vigorously opposed to the permission of the use of 1080, yponide & streychnine for predator control in Oregon.

This is an indiscriminate way of getting to the predators creating the problem.

Thank you,

Mr. & Mrs. Bob Greenlee

SS 106 69
to clear up drafting
& printing errors

SENATE AMENDMENTS TO

S. AG. & NAT. RES. COM.
OREGON STATE ARCHIVES

SENATE BILL 106

by Agriculture and Natural Resources Committee

On page 2 of the printed bill, line 19, delete "formulate" and insert "formulation".

On page 9, delete lines 12 and 13.

In line 14, delete "(A)" and insert "(c)".

In line 15, delete "(B)" and insert "(d)".

On page 13, line 13, after the second "or" insert "renewal".

On page 14, line 10, delete "license" and insert "licensee".

On page 17, line 20, after "by" delete "such persons or agencies and" and insert "a public trainee".

In line 21, delete "their employes".

On page 31, line 28, delete "Order" and insert "order".

In line 29, delete "Order" and insert "order".

On page 33, line 16, delete "strychnine, hydrogen cyanide or".

In line 17, delete "cides" and insert "cide".

In line 18, delete "pesticides" and insert "pesticide".

In line 19, delete "quantities" and insert "quantity".

On page 34, line 25, between "restricted" and "use" insert a hyphen.

PROPOSED SENATE AMENDMENTS TO

SENATE BILL 106

BY COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

On page 22 of the printed bill, line 25, after "(3)" insert "except as otherwise provided in Section 15 of this 1973 Act:".

On page 22, line 31, after "pesticides" insert "with power driven application equipment or devices".

On page 25, line 5, after "area" insert "or restricted area".

On page 25, line 6, after "area" insert "or restricted area".

On page 25, line 7, after the comma insert "or a restricted area established pursuant to ORS 573.537 and in effect June 1, 1973," and in the same line after "area" insert "or restricted area".

On page 25, line 8, after "area" insert "or restricted area".

On page 25, line 10, after "area" insert "or restricted area".

On page 25, line 12, after "area" insert "or restricted area".

On page 37, line 7, after "pesticide" delete "application" and insert "applicators'" and in the same line after "apparatus," delete "devices" and insert "machinery".

REPRINT

Senate Bill 106

Sponsored by COMMITTEE ON AGRICULTURE AND
NATURAL RESOURCES
(at the request of the State Department of Agriculture)

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.

Revises provisions relating to application, registration, control and use of pesticides in this state. Declares purpose to regulate in public interest formulation, distribution, storage, transportation, application and use of pesticides.

Creates Committee on Synthetic Chemicals in Environment to provide advisory information to Department of Agriculture and other state agencies in evaluation of use and disposition of pesticides and other synthetic chemicals. Provides for composition, term, compensation and chairman of committee.

Requires classification, registration, labeling and food tolerances of pesticides, and exemptions thereto. Provides for licensing of pesticide consultants, dealers, operators, applicators and farmer applicators, as well as certification of pesticide applicator trainees, and exemptions thereto. Authorizes Department of Agriculture to conduct consultant, applicator, farmer applicator and trainee examinations, reexaminations and educational courses and requires record keeping of pesticide operators. Authorizes establishment by department of protected and restricted areas wherein pesticide application is controlled, and procedures therefor. Provides for departmental authority to investigate losses from commercial pesticide application, as well as authority to administer Act and promulgate regulations. Designates prohibited acts and conditions for seizure of pesticides. Provides penalties.

1 (pr)

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION.**

1 (4) "Device" means any instrument or contrivance containing pesti-
2 cides or other chemicals intended for trapping, destroying, repelling or
3 mitigating insects or rodents or destroying, repelling or mitigating fungi,
4 nematodes or such other pests as may be designated by the department, but
5 does not include equipment used for the application of pesticides or other
6 chemicals when sold separately from such pesticides or chemicals.

7 (5) "^{Private}Farmer" applicator" means a person who uses or supervises the
8 use of any pesticide, classified by the department as a restricted-use or
9 highly toxic pesticide, for the ^{purpose} purpose of producing agricultural commodi-
10 ties, ^{or forest crops} or land owned or leased by him.

11 (6) "Highly toxic" means a pesticide or device determined by the
12 department to be capable of causing severe injury, disease or death to
13 human beings.

14 (7) "Landowner" means a person owning three acres or more within
15 a proposed protected area; and in the case of multiple ownership of land,
16 the owner is only a person whose interest is greater than an undivided one-
17 half interest therein or who holds an authorization in writing from one
18 or more of the other owners whose interest, when added to his interest,
19 are greater than an undivided one-half interest in the land.

20 (8) "Pesticide" includes:

21 (a) "Defoliant" which means any substance or mixture of substances
22 intended for causing the leaves or foliage to drop from a plant with or
23 without causing abscission;

24 (b) "Desiccant" which means any substance or mixture of substances
25 intended for artificially accelerating the drying of plant tissue;

26 (c) "Fungicide" which means any substance or mixture of substances
27 intended for preventing, destroying, repelling or mitigating any fungus;

28 (d) "Herbicide" which means any substance or mixture of substances
29 intended for preventing, destroying, repelling or mitigating any weed;

30 (e) "Insecticide" which means any substance or mixture of substances
31 intended for preventing, destroying, repelling or mitigating any insects
32 which may be present in any environment whatsoever;

33 (f) "Nematocide" which means any substance or mixture of substances
34 intended for preventing, destroying, repelling or mitigating nematodes;

SB 106

[2]

1 A BILL FOR AN ACT

2 Relating to the application, registration, control and use of pesticides in
3 Oregon; creating new provisions; repealing ORS chapters 573 and 634
4 (1971 Replacement Part); and providing penalties.

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

6 **SECTION 1.** Sections 2 to 36 of this 1973 Act are added to and made
7 a part of ORS chapter 634.

8 **MISCELLANEOUS PROVISIONS**

9 **SECTION 2.** The purpose of this 1973 Act, which shall be known as
10 the State Pesticide Control Act and shall be enforced by the department,
11 is to regulate in the public interest the formulation, distribution, storage,
12 transportation, application and use of pesticides. Many materials have
13 been discovered or synthesized which are necessary and valuable for the
14 control of insects, plant diseases and weeds. Many more pesticides will be
15 discovered and needed. Such materials, however, may injure health,
16 property, wildlife or environment by being distributed, stored, trans-
17 ported, applied or used in an improper or careless manner. The pesticide
18 industry of this state has achieved and maintained high standards in its
19 ^{formulation} [formulate] and use of pesticides while at the same time experiencing a
20 minimum of injury to persons, property or the environment. Currently
21 updating the law to maintain this achievement and to consider future new
22 pesticides and problems is necessary for the protection of persons, property,
23 wildlife and environment of this state.

24 **SECTION 3.** As used in this chapter unless the context requires
25 otherwise:

26 (1) "Antidote" means a practical immediate treatment in case of
27 poisoning and includes first-aid treatment.

28 (2) "Brand" or "trade-mark" means any word, name, symbol or any
29 combination thereof adopted or used by a person to identify pesticides
30 manufactured, compounded, delivered, distributed, sold, or offered for
31 sale in this state and to distinguish them from pesticides manufactured,
32 compounded, delivered, distributed, sold or offered for sale by others.

33 (3) "Department" means the State Department of Agriculture.

SB 106

[4]

1 (g) "Plant regulator" which means any substance or mixture of sub-
2 stances intended, through physiological action, to accelerate or retard the
3 rate of growth or rate of maturation or to otherwise alter the behavior of
4 ornamental or crop plants or the produce thereof, but shall not include
5 substances to the extent that they are intended as plant nutrients, trace
6 elements, nutritional chemicals, plant inoculants or soil amendments;

7 (h) Any substance, or mixture of substances intended to be used for
8 defoliating plants or for preventing, destroying, repelling or mitigating
9 all insects, plant fungi, weeds, rodents, predatory animals or any other
10 form of plant or animal life which is, or which the department may de-
11 clare to be a pest, which may infest or be detrimental to vegetation, man,
12 animals, or be present in any environment thereof.

13 (9) "Pesticide applicator" or "applicator" means a person who:

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

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

17 (c) Is in direct charge of or supervises the spraying or application of
18 pesticides or operates, uses, drives or physically directs propulsion of equip-
19 ment, apparatus or machinery, either on the ground or by aircraft in such
20 activity.

21 (10) "Pesticide consultant" means a person, ^{including governmental employees,} who offers or supplies
22 technical advice, supervision, aid or recommendations to the user of
23 pesticides classified by the department as restricted-use or highly toxic
24 pesticides, whether licensed as a pesticide dealer or not.

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

28 (12) "Pesticide equipment" means any equipment, machinery or device
29 used in the actual application of pesticides, including aircraft and ground
30 spraying equipment.

31 (13) "Pesticide operator" means a person who owns or operates a
32 business engaged in the application of pesticides upon the land or property
33 of another.

1 (14) "Pesticide trainee" means a person who:

2 (a) Is employed by a pesticide operator; and

3 (b) Is working and engaged in a training program under special
4 certificate to qualify as a pesticide applicator.

5 (15) "Professed standard of quality" means a plain and true statement
6 of the name and percentage of each active ingredient and the total
7 percentage of all inert ingredients contained in any pesticide.

8 (16) "Protected area" means an area established under the provisions
9 of this 1973 Act to prohibit or restrict the application of pesticides.

10 (17) "Public applicator" means a person who is an employe of the
11 State of Oregon or its agencies, counties, cities, municipal corporations,
12 other governmental bodies or subdivisions thereof, irrigation districts,
13 drainage districts and public utilities and who performs or carries out the
14 work, duties or responsibilities of a pesticide applicator.

15 (18) "Public trainee" means a person who is an employe of the State
16 of Oregon or its agencies, counties, cities, municipal corporations, other
17 governmental bodies or subdivisions thereof, irrigation districts, drainage
18 districts and public utilities and who performs or carries out the work,
19 duties or responsibilities of a pesticide trainee.

20 (19) "Registrant" means a person registering any pesticide pursuant
21 to this 1973 Act.

22 (20) "Restricted area" means an area established under the provisions
23 of this 1973 Act to restrict, but not prohibit, the application of pesticides.

24 (21) "Restricted-use pesticide" means any pesticide or device which
25 the department has found and determined to be so injurious or detrimental
26 to persons, pollinating insects, bees, animals, crops, wildlife, land or environ-
27 ment, other than the pests it is intended to prevent, destroy, control or
28 mitigate, that additional restrictions are required.

29 (2) "Weed" means any plant which grows where not wanted.

30 **SECTION 4.** The increasing formulation, distribution, application and
31 use of pesticides and other synthetic chemicals have created serious prob-
32 lems with storage, disposition and transportation of pesticides and other
33 synthetic chemicals which cannot or should not be distributed, applied or
34 used. Such problems include but are not limited to the recall and storage

SB 106

[6]

1 of pesticides and other synthetic chemicals prohibited from distribution,
 2 application or use because of a violation of or noncompliance with a law
 3 or regulation. The department shall review scientific information relating
 4 to such problems and develop immediate and long-range programs or
 5 plans for solutions to such problems, and for these purposes seek the
 6 advice of the committee, established by section 5 of this 1973 Act, and
 7 other governmental agencies or bodies.

8 **SECTION 5.** (1) There is established the Committee on Synthetic
 9 Chemicals in the Environment, consisting of 12 members, 11 of whom shall
 10 be appointed by the Governor and serve at his pleasure.

11 (2) The committee shall be appointed as follows:

12 (a) One member shall represent the department.

13 (b) *One member shall be appointed from the State Forestry Department, one*
 14 *member from the State Game Commission and one member from the State Department*
 15 *of Geology and Mineral Industries.* Three members shall represent the natural resources agencies of
 16 *Health Division, Department of Human Resources*
 17 the state [State Board of Health].

18 (c) One member shall represent the [State Board of Health].

19 (d) One member shall represent the Department of Environmental
 20 Quality.

21 (e) One member shall represent the state's Public Utility Commissioner
 22 or Department of Transportation.

23 (f) One member shall represent the Environmental Health Sciences
 24 Center of Oregon State University.

25 (g) One member shall represent the pesticide chemical industry.

26 (h) Two members shall represent the public at large.

27 (i) One member shall represent the emergency service agencies of
 28 the state.

29 (3) The term of each member, except the department's representative,
 30 shall be for three years beginning July 1 of the year of appointment. A
 31 member shall continue to serve until a successor is appointed. Vacancies
 32 in office shall be filled by appointment for the unexpired term. Members
 shall be entitled to compensation and expenses as provided in ORS 292.495,
 which shall be paid by the agency or governmental body served by the
 committee. A majority of the committee shall constitute a quorum for

1 the transaction of business. A meeting may be called by the Director of
2 Agriculture or the chairman of the committee.

3 (4) The Director of Agriculture shall in July of each year appoint
4 either the representative of the department or the representative of the
5 Department of Environmental Quality as the chairman of the committee
6 to serve for one year. A chairman may be reappointed without limitation.

7 **SECTION 6.** (1) The Committee on Synthetic Chemicals in the En-
8 vironment shall be composed of knowledgeable and capable persons within
9 Oregon who are experienced with the management and use of pesticides
10 and other synthetic chemicals.

11 (2) The purposes of such committee are to provide advisory informa-
12 tion and creative leadership in the evaluation of the use and disposition of
13 pesticides and other synthetic chemicals, considering the risk involved to
14 the environment versus the benefits to be derived therefrom, and to that
15 end to conduct reviews and studies for the development of factual data
16 relevant to such evaluation.

17 (3) The committee may advise the department and any other state
18 agency or governmental body in connection with the enforcement of laws
19 over which each has jurisdiction in the field of pesticides or other syn-
20 thetic chemicals, including disposition of residues from the manufacture
21 of such materials and containers thereof, transportation, sale or use.

22 **REGISTRATION, SALE AND USE**

23 **SECTION 7.** (1) Every brand, and each formula or formulation there-
24 under, of pesticide manufactured, compounded, delivered, distributed, sold,
25 offered or exposed for sale in this state shall be registered each year with
26 the department.

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

30 (3) The registration shall be made by the manufacturer or a dis-
31 tributor of the pesticide.

32 (4) The application for registration shall include:

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

SB 106

[8]

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

3 (c) The brand name or trade-mark of the pesticide.

4 (d) A specimen or facsimile of the label of each brand, and each
5 formula or formulation thereunder, for which registration is sought,
6 except for annual renewals of the registration when the label remains
7 unchanged.

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

9 (f) The total percentage of inert ingredients.

10 (5) The application for registration shall be accompanied by a regis-
11 tration fee to be established by the department for each brand, and each
12 formula or formulation thereunder, which shall not exceed \$40 for each
13 such brand, or each formula or formulation thereunder.

14 (6) The department, at the time of application for registration of any
15 pesticide may:

16 (a) Restrict or limit the manufacture, delivery, distribution, sale or
17 use of any pesticide in this state.

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

21 (c) Refuse to register any pesticide for use on a crop for which no
22 finite tolerances for residues of such pesticides have been established by
23 either the department or the Federal Government.

24 (d) In restricting the purposes for which pesticides may be manufac-
25 tured, delivered, distributed, sold or used, or in refusing to register any
26 pesticide, give consideration to:

27 (A) The damage to health or life of humans or animals, or detriment
28 to the environment, which might result from the distribution and use of
29 such pesticide.

30 (B) Authoritative findings and recommendations of agencies of the
31 Federal Government and of any advisory committee or group established
32 under subsection (11) of section 32 of this 1973 Act.

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

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

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

4 (7) The pesticide known as "1080" (sodium fluoroacetate), or any
5 mixture containing such pesticide shall not be registered by the depart-
6 ment for any purpose except the following:

7 (a) The manufacture and sale to or use by agencies or instrumentali-
8 ties of this state or the Federal Government;

9 (b) The manufacture and sale to or use only by a person licensed under
10 this 1973 Act to engage in the business of exterminating, destroying, re-
11 pelling or mitigating commensal rodents or predatory animals.

12 (c) As to the pesticide known as "1080" (sodium fluoroacetate), or
13 any mixture containing such pesticides:

14 (A) The manufacture for shipment and sale outside this state;

15 (B) The manufacture and sale to or use by persons engaged in reforesta-
16 tion operations.]

17 (7) (8) The provisions of this section shall not, except as provided herein,
18 apply to:

19 (a) The use and purchase of pesticides by the Federal Government
20 or its agencies.

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

23 (c) Drugs, chemicals or other preparations sold or intended for medi-
24 cinal or toilet purposes or for use in the arts or sciences.

25 (d) Common carriers, contract carriers or public warehousemen de-
26 livering or storing pesticides, except as provided in section 33 of this
27 1973 Act.

28 **SECTION 8.** The department may establish, maintain and amend lists
29 of pesticides and devices which are highly toxic or restricted-use pesti-
30 cides or devices.

31 **SECTION 9.** (1) The provisions of section 7 of this 1973 Act are not
32 applicable to pesticides used only for experimental or research purposes.
33 Such pesticides shall be conspicuously labeled "For experimental pur-
34 poses only and not for sale" in addition to the labeling requirements of

Delete

SB 106

[10]

1 section 10 of this 1973 Act, except that they need not be labeled with
2 directions for use or the professed standard of quality.

3 (2) (a) Subject to the exemptions set forth in paragraph (b) of this
4 subsection, before any pesticide can be used for experimental or research
5 purposes a person proposing to use such pesticides shall obtain approval of
6 the department. Application for such approval shall contain such infor-
7 mation as may be required by the department, including the location and
8 size of the plot on which the experiment or research is to be carried out,
9 the nature of the pesticide to be utilized, the person responsible for such
10 activities and the intended disposition of any crops grown upon the experi-
11 mental or research plot.

12 (b) The provisions of paragraph (a) of this subsection are not applic-
13 able to:

14 (A) Federal or state agencies;

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

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

20 **SECTION 10.** (1) If not otherwise required or prescribed by federal
21 law or rule, each package or container of every pesticide shall be labeled
22 with:

23 (a) The name and address of the manufacturer or person for whom it
24 was manufactured.

25 (b) The brand name or trade-mark under which the material is sold.

26 (c) The professed standard of quality of the material.

27 (d) The net weight or volume of the contents.

28 (e) Adequate and necessary directions for its proper and intended
29 use.

30 (2) In addition to the information required by subsection (1) of this
31 section, any pesticide which is highly toxic shall be labeled with:

32 (a) A sign of a skull and crossbones.

1 (b) The word "poison" in red on the package printed on a background
2 of contrasting color.

3 (c) A poison antidote for the material, if any.

4 (3) The provisions of subsection (2) of this section shall not apply
5 to bleaching powder or chloride of lime.

6 **SECTION 11.** Pesticides shall be deemed misbranded if:

7 (1) The package or container of such materials bears any false or
8 misleading statement.

9 (2) The container or package of such materials is not labeled as re-
10 quired by section 10 of this 1973 Act.

11 **SECTION 12.** A pesticide shall be deemed to be adulterated if:

12 (1) It is a pesticide other than a herbicide, defoliant or desiccant, is
13 intended for use on vegetation and contains any substance which is injuri-
14 ous to such vegetation when used as directed under normal growing
15 conditions.

16 (2) The strength or purity of the pesticide is below the purported or
17 professed standard of quality as expressed in its labeling, or any sub-
18 stance has been substituted wholly or in part for any ingredient of the
19 pesticide, or any valuable constituent thereof has been omitted wholly or
20 in part.

21 (3) The contents of the package or container of pesticide do not meet
22 their purported standard of quality in any other manner.

23 (4) The contents of the package or container represented to be a pesti-
24 cide are not definitely effective for the purpose for which recommended.

25 **SECTION 13.** (1) Any poisonous or deleterious pesticide or any pesti-
26 cide which, in the opinion of the department, is not generally recognized
27 among experts qualified by scientific training and experience to evaluate the
28 safety of pesticide chemicals as safe for use, added to a raw agricultural
29 commodity, shall be deemed unsafe for the purposes of the application
30 of paragraph (b) of subsection (1) of ORS 616.235, unless:

31 (a) A tolerance for such pesticide chemical in or on the raw agri-
32 cultural commodity has been prescribed by regulation promulgated by the
33 department and the quantity of such pesticide chemical in or on the raw
34 agricultural commodity is within the limits of the tolerance so prescribed, or

SB 106

[12]

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

4 (2) While a tolerance or exemption from tolerance is in effect for a
5 pesticide chemical with respect to any raw agricultural commodity, such
6 raw agricultural commodity shall not, by reason of bearing or containing
7 any added amount of such pesticide chemical, be considered to be adulter-
8 ated within the meaning of paragraph (a) of subsection (1) of ORS
9 616.235, provided such pesticide chemical or the use of such pesticide
10 chemical is in compliance with the law and regulations promulgated
11 thereunder.

12 (3) In a commercial fertilizer, agricultural minerals or lime mix in
13 which a pesticide is contained, all applicable provisions of this chapter
14 must be complied with. In lieu of the requirements of paragraph (c) of
15 subsection (1) of section 10 of this 1973 Act, the label or invoice on a certain
16 mix may show the name and amount of the actual pesticide, together with
17 the total amount of the entire mixture, including the amount of actual
18 pesticide, to be applied to each acre.

19 **COMMERCIAL APPLICATION**

20 **SECTION 14.** (1) Any license or certificate issued or required of a
21 pesticide consultant, dealer, operator, applicator, ^{private} [farmer] applicator or
22 trainee by this 1973 Act shall expire on December 31 following issuance un-
23 less it has been revoked or suspended prior thereto by the department. At
24 least 30 days prior to the expiration date, the department shall by mail noti-
25 fy each person holding a license or certificate of the expiration date thereof.

26 (2) Applications for all licenses or certificates required of a pesticide
27 consultant, dealer, operator, applicator, ^{private} [farmer] applicator or trainee, or
28 renewal thereof, shall be made to the department on forms prescribed
29 by the department.

30 (3) All such licenses or certificates are personal to the applicant and
31 may not be transferred to any other person.

32 (4) Nothing in this 1973 Act shall be construed as requiring a person,
33 helping or assisting in the application of pesticides or the pesticide applica-

1 tion business through the performance of manual labor only, to obtain
2 a license or certificate, if the actual application of pesticides is made by:

3 (a) A licensed pesticide applicator; or

4 (b) A person applying pesticides under the provisions of section 22 of
5 this 1973 Act.

6 (5) Failure to pay the renewal license fees when due by a pesticide
7 consultant, dealer, operator, ^{or} applicator, [or farmer applicator] or failure to
8 pay the renewal certificate fees by a trainee, shall forfeit the right to
9 engage in the activities of a pesticide consultant, dealer, operator, applicator, ^{or}
10 [farmer applicator] or trainee, as the case may be. Any person whose pesti-
11 cide consultant, dealer, operator, ^{or} applicator [or farmer applicator] license, or
12 trainee certificate has been forfeited, shall not be issued a license, certificate
13 or renewal license or ^{renewal} certificate except upon written application to the de-
14 partment accompanied by a sum of money equal to the license or certificate
15 fee which should have been paid plus a penalty equal to 20 percent of
16 the license or certificate fee, whichever is applicable.

17 (6) If such person is a pesticide consultant, ^{or} applicator [or farmer appli-
18 cator] and does not pay both the license fee plus the penalty during the
19 first month in which the license fee is delinquent, thereafter such pesticide
20 consultant, ^{or} applicator [or farmer applicator] shall not only pay both amounts
21 but shall also obtain a passing grade in a reexamination given by the
22 department for pesticide applicators as prescribed in section 16 of this 1973
23 Act, or otherwise demonstrate his knowledge of the subject to the satis-
24 faction of the department.

25 (7) No penalty or penalty reexamination shall be required of a person
26 whose application for renewal of a license or certificate is accompanied
27 by his signed statement that prior to his application he has not operated
28 or worked as a pesticide consultant, applicator, [farmer applicator] or
29 trainee, as the case may be, during the previous six months or since the
30 expiration date of his last license or certificate, whichever time is less.
31 If the department later verifies this signed statement is false, then not-
32 withstanding the provisions of ORS chapter 183, the department may
33 immediately suspend the license or certificate which was issued as a
34 result of such statement. Such suspension shall only be removed after

SB 106

[14]

1 the person has complied with the applicable penalty provisions of sub-
2 sections (5) and (6) of this section.

3 **SECTION 15.** (1) A pesticide operator's license, or supplements there-
4 to, shall authorize the licensee to engage in one or more of the classes of
5 pest control or pesticide application business prescribed by the department
6 under subsection (2) of section 32 of this 1973 Act.

7 (2) During a license period, and after a person has been issued a
8 license to engage in certain classes of pest control or pesticide application
9 business during a license period, the department upon receiving an addi-
10 tional application and applicable fees, may authorize the licensee to engage
11 in additional classes of pest control or pesticide application business for
12 the remainder of the license period as prescribed in subsection (2) of
13 section 32 of this 1973 Act.

14 (3) (a) At the time a person first makes application for a license or
15 renewal thereof as a pesticide operator for a specific license period, the
16 license fee *shall be established by the department not to exceed \$40.* is \$35 for the first class of pest control or pesticide application
17 business as prescribed in subsection (2) of section 32 of this 1973 Act and *not to*
18 *exceed \$15* \$10 for each additional class.

19 (b) After a person makes his first application for a specific license
20 period, if later during the same license period he desires to engage in
21 additional classes of pest control or pesticide application businesses, the
22 fee for each additional class *shall be established by the department not to*
exceed \$20 is \$15.

23 (4) At least one person who is owner or part owner of the pest con-
24 trol or pesticide application business shall also obtain and maintain a
25 pesticide applicator's license if the pesticide operator is a sole proprietor-
26 ship or is a partnership. At least one officer or one employe shall also obtain
27 and maintain a pesticide applicator's license if the pesticide operator is a
28 corporation. At any time there is a violation of this subsection, the pesti-
29 cide operator's license, notwithstanding the provisions of ORS chapter 183,
30 shall be automatically suspended until such time as the pesticide operator
31 is in compliance. If the business is owned by one individual, the depart-
32 ment shall make no charge for the pesticide applicator license issued to
33 him under section 16 of this 1973 Act.

1 (5) The department shall not issue or renew a pesticide operator's
2 license until the applicant or licensee has furnished evidence to the de-
3 partment, in the form of a public liability policy issued by an insurance
4 company qualified to do business in Oregon, protecting the applicant or
5 licensee against liability for injury or death to persons and loss of or damage
6 to property resulting from the application of pesticides, or in lieu of such
7 insurance, has furnished a deposit of cash or negotiable securities accept-
8 able to the department which may be applied by the department to the
9 payment of damages resulting from such liability. However:

10 (a) Except as required under paragraph (b) of this subsection, the
11 financial responsibility required by this section shall not apply to damages
12 or injury to crops, real or personal property being worked upon by the
13 applicant.

14 (b) If the applicant or licensee is to be engaged in the business of
15 controlling or eradicating structural pests, or pests within a public or
16 private place, or pests within private or public places where food is
17 served, prepared or processed or where persons are regularly housed, the
18 financial responsibility required by this section shall apply to damages or
19 injury to real or personal property being worked upon, as well as all the
20 other real and personal property set forth in this section.

21 (6) The financial responsibility required by subsection (5) of this
22 section shall be in the amount of not less than \$25,000 for bodily injury to
23 one or more persons and not less than \$25,000 for property damage.

24 (7) Notwithstanding the provisions of ORS chapter 183, at any time
25 the licensed pesticide operator fails to maintain the financial responsibility
26 required by subsections (5) and (6) of this section, his license shall be
27 automatically suspended until the department again verifies he is in
28 compliance with the provisions of such subsections of this section. The
29 department shall be notified in writing by the liability insurance company
30 at least 30 days prior to any cancellation of an insurance policy required
31 by this section.

32 (8) Notwithstanding the provisions of ORS 105.810 and 105.815 or other
33 laws to the contrary, the amount of damages for which a pesticide operator
34 or pesticide applicator is liable as a result of his use of pesticides, or his

SB 106

[16]

1 financial responsibility for the same shall be limited to actual damages
2 only.

3 (9) The deposit required by subsection (5) of this section shall be re-
4 turned to the pesticide operator if he at any time establishes exemption
5 from the financial responsibility requirements under this 1973 Act. After
6 the expiration of two years from the date of an injury, death, loss or damage,
7 any deposit remaining shall be returned to the pesticide operator or to his
8 personal representative except that the department shall not make such
9 return if it has received notice that an action for damages arising out of
10 the provisions of this section has been filed against the pesticide operator for
11 whom the deposit was made, and the department has determined that such
12 action is pending or that any judgment resulting from such action remains
13 unpaid.

14 (10) If the pesticide operator is to spray by aircraft, then the depart-
15 ment, in addition to other provisions of this section relating to financial
16 responsibility, may by regulation allow aircraft pesticide operators to
17 reduce, suspend or terminate the liability insurance, applicable to spray-
18 ing by aircraft, and required by subsections (5) and (6) of this section
19 during certain periods of the year.

20 (11) The department may by regulation allow liability insurance
21 policies required by subsections (5) and (6) of this section to include de-
22 ductible clauses of amounts to be determined by the department.

23 (12) The State of Oregon or its agencies, counties, cities, municipal
24 corporations, other governmental bodies or subdivisions thereof, irrigation
25 districts, drainage districts and public utilities, shall not be required to
26 obtain a license as a pesticide operator or to furnish evidence of financial
27 responsibility to the department, while applying pesticides to land or
28 property under their ownership, supervision, control or jurisdiction.

29 (13) The employes of the persons or agencies described in subsection
30 (12) of this section who perform or carry out the work, duties or res-
31 ponsibilities of a pesticide applicator are subject to the provisions of this
32 1973 Act, except they shall be issued "public applicator" licenses or, if they
33 carry out the work, duties or responsibilities of a pesticide trainee, shall

1 be issued "public trainee" certificates, if they otherwise comply or qualify
2 with the provisions of this 1973 Act relating thereto.

3 (14) The public applicator license or public trainee certificate, as the
4 case may be, shall be:

5 (a) Issued by the department upon payment of a fee ~~of \$7.50~~ by the
6 applicant.

*to be established by the department
not to exceed \$10.*

7 (b) Valid and used by the licensee or certificate holder only while
8 working for and employed by one of the persons, agencies or others named
9 in subsection (12) of this section on land or property under the ownership,
10 supervision or jurisdiction thereof.

11 (c) Renewed, suspended or revoked each year in the same manner,
12 under the same provisions and at the same time as other pesticide applica-
13 tor licenses and trainee certificates are renewed, suspended or revoked.

14 (15) As to persons, public agencies or others described in subsection
15 (12) of this section, and subdivisions of government and their employes,
16 the provisions of subsection (13) of this section shall apply only to:

17 (a) Application of pesticides by aerial spraying; or

18 (b) The propelling through air by machine-powered devices of spray
19 or dust containing pesticides; and

20 (c) Where such application is done by such persons or agencies and
21 their employes, such application shall be done under the immediate super-
22 vision of a person holding a license as a pesticide applicator or public
23 applicator.

24 **SECTION 16.** (1) An applicant for a pesticide applicator's license
25 is entitled to be examined for or to be issued a license or supplements
26 thereto by the department, if the applicant:

27 (a) Is at least 18 years of age;

28 (b) Proves to the satisfaction of the department that he:

29 (A) Has had experience as a pesticide trainee for the minimum period
30 and in the manner prescribed by the department; or

31 (B) Has educational qualifications, experience or training which is
32 equal to the minimum standards and requirements established by the
33 department; or

SB 106

[18]

- 1 (C) Has been licensed in Oregon as a pesticide applicator and actively
2 engaged in such work during the prior license period, as shall be pre-
3 scribed by the department.
- 4 (2) An applicant for a pesticide applicator's license shall be re-
5 quired to demonstrate satisfactorily by written examination or any re-
6 examination given by the department, an adequate knowledge of:
- 7 (a) The characteristics of pesticides and the effect of their application
8 to particular crops.
- 9 (b) The practices of application of pesticides.
- 10 (c) The conditions and times of application of pesticides and the pre-
11 cautions to be taken in connection therewith.
- 12 (d) The applicable laws and rules relating to pesticides and their appli-
13 cation in this state.
- 14 (e) Other requirements or procedures which will be of benefit to and
15 protect the pesticide applicator, the persons who use his services and the
16 property of others.
- 17 (3) Based upon the license application and the request of the appli-
18 cant, the department may examine him only in any one or more of the
19 classes of pest control or pesticide application businesses established by
20 the department under subsection (2) of section 32 of this 1973 Act.
- 21 (4) (a) At the time a person first makes application for a license or
22 renewal thereof as a pesticide applicator for a specific license period, the
23 license fee ^{shall be established by the department not to exceed \$15} ~~is \$10~~ for the first class of pest control or pesticide application
24 business as prescribed in subsection (2) of section 32 of this 1973 Act and ^{not} ~~to exceed \$7.50~~
25 ~~is \$5~~ for each additional class.
- 26 (b) After a person makes his first application for license or renewal
27 thereof for a specific license period, if later during the same license period
28 such person desires to engage in additional classes of pest control or pesti-
29 cide application business as prescribed in subsection (2) of section 32 of
30 this 1973 Act, the fee for each additional class ^{shall be established by the} ~~is \$10~~
^{department not to exceed \$12.50}
- 31 (5) Examinations or reexaminations for pesticide ^{applicators'} ~~applicators~~ licenses
32 shall be given by the department at such time and in any of its branch
33 offices or other locations it deems expedient, and shall be under the super-
34 vision of its employes or appointees. The department is authorized to:

1 (a) Appoint without pay or reimbursement, employes of other state
2 agencies who are authorized to give examinations.

3 (b) Prepare and maintain various types of examinations and types and
4 schedules of reexaminations and to take all other measures deemed neces-
5 sary to insure that persons receiving passing grades thereto have been
6 fairly and reasonably tested as to their ability and that there have been
7 no fraudulent or dishonest means used by the applicants in applying for or
8 in the taking of examinations or reexaminations.

9 (6) If it verifies an applicant has received a passing grade on the
10 examination or reexamination and otherwise has complied with the pro-
11 visions of this 1973 Act, the department shall issue a pesticide applicator's
12 license.

13 (7) Each person who has failed to receive a passing grade or for other
14 reasons was not issued a license as a result of an examination or reexam-
15 ination given by the department, shall pay \$5 to partially reimburse the
16 department for its costs prior to the department giving any future re-
17 examination to the applicant.

18 **SECTION 17.** (1) In accordance with regulations promulgated by the
19 department, as provided in subsection (1) of section 32 of this 1973 Act, the
20 department shall issue or renew its pesticide trainee's certificate if the
21 applicant or certificate holder:

- 22 (a) Is at least 18 years of age;
- 23 (b) Is employed by a licensed pesticide operator;
- 24 (c) Is working under the direct supervision and control of a licensed
25 applicator;
- 26 (d) Is in compliance with the applicable provisions of this 1973 Act
27 and regulations promulgated thereunder.

28 (2) The fees for a pesticide trainee's certificate, or renewal thereof,
29 shall be the same as the license fee for a pesticide applicator.

30 **SECTION 18.** (1) The annual license fee for a pesticide consultant
31 shall be ^{established by the department not to exceed} \$20, payable at the time application is made for such license, or
32 renewal thereof.

33 (2) An applicant for a pesticide consultant's license shall be required

1 to demonstrate satisfactorily by written examination or any reexamination
2 given by the department, an adequate knowledge of:

3 (a) The characteristics of pesticides and the effect of their application
4 to particular crops.

5 (b) The practices of application of pesticides.

6 (c) The conditions and times of application of pesticides and the pre-
7 cautions to be taken in connection therewith.

8 (d) The applicable laws and rules relating to pesticides and their appli-
9 cation in this state.

10 (e) Other requirements or procedures which will be of benefit to
11 and protect the pesticide applicators, the persons who use his services and
12 the property of others.

13 (3) Based upon the license application and the request of the appli-
14 cant, the department may examine him only in any one or more of the
15 classes of pesticides established by the department under subsection (2)
16 of section 32 of this 1973 Act.

17 (4) Examinations or reexaminations for pesticide consultant's licenses
18 shall be subject to subsections (5) and (6) of section 16 of this 1973 Act.

19 (5) This section shall not apply to licensed pesticide applicators^{or} opera-
20 tors, or employes of governmental agencies who make recommendations
21 or conduct research on pesticides as a part of their regular employment
22 duties.]

23 **SECTION 19.** (1) The annual license fee for a pesticide dealer shall
24 be ^{*established by the department not to exceed*} \$10, payable at the time application is made for such license, or renewal
25 thereof. A separate license shall be required for each sales outlet or loca-
26 tion.

27 (2) This section shall not apply to:

28 (a) Any licensed pesticide operator who sells restricted-use or highly
29 toxic pesticides as a part of his services, or through his licensed employes,
30 through the use of his own equipment;

31 (b) Any state, federal or governmental agency providing restricted-
32 use or highly toxic pesticides to its own employes for use in its own
33 programs.

1 (c) Any person who sells, offers for sale, handles or distributes pesti-
2 cide-fertilizer mixtures only in packages of 25 pounds or less in size.

3 [SECTION 20. (1) The annual license fee for a farmer applicator shall
4 be \$7.50, payable at the time application is made for such license, or re-
5 newal thereof.

6 (2) An applicant for a farmer applicator's license shall be required
7 to demonstrate satisfactorily by written examination or any reexamina-
8 tion given by the department, an adequate knowledge of:

9 (a) The characteristics of pesticides and the effect of their application
10 to particular crops.

11 (b) The practices of application of pesticides.

12 (c) The conditions and times of application of pesticides and the pre-
13 cautions to be taken in connection therewith.

14 (d) The applicable laws and rules relating to pesticides and their
15 application in this state.

16 (e) Other requirements or procedures which will be of benefit to
17 and protect the farmer applicator, the persons who use his services and
18 the property of others.

19 (3) Based upon the license application and the request of the appli-
20 cant, the department may examine him only in any one or more of the
21 classes of pesticides established by the department under subsection (2)
22 of section 32 of this 1973 Act.

23 (4) Examinations or reexaminations for farmer applicator's licenses
24 shall be subject to subsections (5) and (6) of section 16 of this 1973 Act.

25 (5) This section shall not apply to licensed pesticide applicators, opera-
26 tors or employes of governmental agencies who make recommendations
27 or conduct research on pesticides as a part of their regular employment
28 duties.]

29 SECTION 21. (1) Pesticide operators shall prepare and maintain rec-
30 ords on forms approved by the department. Such records shall include:

31 (a) The name of the person for whom the pesticide was applied.

32 (b) The approximate location of the land or property on which the
33 pesticide was applied.

34 (c) The date and approximate time of application.

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1 (c) Any person who sells, offers for sale, handles or distributes pesti-
2 cide-fertilizer mixtures only in packages of 25 pounds or less in size.

3 [SECTION 20. (1) The annual license fee for a farmer applicator shall
4 be \$7.50, payable at the time application is made for such license, or re-

"Section 20. (1) The department shall issue or renew its private applicator's certificate if the applicant or certificate holder meets the certification standards established by the department pursuant to subsection (5) of Section 32 of this 1973 Act.

"(2) No fee shall be assessed for a private applicator's certificate, or renewal thereof."

12 (c) The conditions and times of application of pesticides and the pre-
13 cautions to be taken in connection therewith.

14 (d) The applicable laws and rules relating to pesticides and their
15 application in this state.

16 (e) Other requirements or procedures which will be of benefit to
17 and protect the farmer applicator, the persons who use his services and
18 the property of others.

19 (3) Based upon the license application and the request of the appli-
20 cant, the department may examine him only in any one or more of the
21 classes of pesticides established by the department under subsection (2)
22 of section 32 of this 1973 Act.

23 (4) Examinations or reexaminations for farmer applicator's licenses
24 shall be subject to subsections (5) and (6) of section 16 of this 1973 Act.

25 (5) This section shall not apply to licensed pesticide applicators, opera-
26 tors or employes of governmental agencies who make recommendations
27 or conduct research on pesticides as a part of their regular employment
28 duties.]

29 SECTION 21. (1) Pesticide operators shall prepare and maintain rec-
30 ords on forms approved by the department. Such records shall include:

31 (a) The name of the person for whom the pesticide was applied.

32 (b) The approximate location of the land or property on which the
33 pesticide was applied.

34 (c) The date and approximate time of application.

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SB 106

[22]

- 1 (d) The person who supplied the pesticides.
- 2 (e) The trade name and the strength of such pesticides.
- 3 (f) The amount or concentration (pounds or gallons per acre of active
4 ingredient or concentration per approximately 100 gallons).
- 5 (g) The specific property, crop or crops to which the pesticide was
6 applied.
- 7 (h) The summary information of equipment, device or apparatus used
8 and, if applied by aircraft, the F.A.A. number.
- 9 (i) The names of the pesticide applicator or pesticide ^{trainee} [trainee] who did
10 the actual application or spraying.
- 11 (2) The records, which shall be kept for a period of at least three
12 years from the date of application of pesticides, shall be available during
13 business hours for review and inspection by the department.
- 14 (3) Upon receiving a request from any owner of field crops on which
15 pesticides were applied, the pesticide operator within 40 days after making
16 such application shall give or forward to the owner a written statement
17 setting forth the information described in paragraphs (a), (b), (c), (e), (f)
18 and (g) of subsection (1) of this section.

19 **SECTION 22.** The provisions of sections 14 to 17 and section 21 of
20 this 1973 Act shall not apply to:

21 (1) Manufacturers of materials engaged in research or experimental
22 work on pesticides.

23 (2) Persons engaged in the business of a pesticide operator or applicator
24 only in the application of any pollenicide.

25 (3) ^{Except as otherwise provided in section 15 of this 1973 Act:}
(a) Agencies, instrumentalities and political subdivisions of the
26 United States or the State of Oregon and their officers, agents or employes
27 acting within the scope of their authority in the conduct of research of
28 pesticides or in the application of pesticides upon property owned or under
29 the control, supervision or jurisdiction of such agencies, instrumentalities or
30 political subdivisions; however, this exemption shall not apply to pesti-
31 cide operators applying pesticides ^{with power driven application equipment or devices} under contract for such agencies, instru-
32 mentalities or political subdivisions.

33 (b) Counties, cities or municipal corporations which only authorize or
34 permit their employes and their pesticide equipment to apply pesticides

1 on property owned or under the control, supervision or jurisdiction of
2 each such governmental body, or in enforcing or carrying out a law,
3 ordinance, rule or order relating to the application of pesticides for the
4 purposes of controlling or eradicating noxious weeds or pests.

5 (4) A farmer ^{or forest landowner} applying pesticides, other than restricted-use or highly
6 toxic pesticides, by use of his own equipment for others on an occasional
7 basis not amounting to a principal or regular occupation, if the farmer
8 does not publicly hold himself out as a pesticide applicator and if the
9 pesticides that are applied are furnished by the owner of the land on which
10 such pesticides are applied.

11 (5) Persons who do not advertise or publicly hold themselves out as
12 being in the business of applying pesticides but whose main or principal
13 work or business is the maintenance of small or home lawns, shrubs or
14 gardens.

15 (6) Persons who do not advertise or publicly hold themselves out as
16 being in the business of applying pesticides and whose principal activity
17 or business as related to pesticides is selling pesticides or selling or leasing
18 equipment.

19 (7) Railroads, to the extent that the application of pesticides is by their
20 regular employes, on land or property under their ownership, supervision,
21 control or jurisdiction, except that if power-operated spray equipment is
22 used for applying volatile herbicides, such application shall be under the
23 direct supervision of a licensed public applicator.

24 **SECTION 23.** (1) No action against a pesticide operator, arising out
25 of the use or application of any pesticide, shall be commenced unless the
26 claimant has filed a report of the loss with the department, and mailed or
27 personally delivered a true copy of such report of loss to the pesticide
28 operator allegedly responsible and a true copy of such report to the person
29 for whom such work was done, if other than himself, within 60 days from
30 the occurrence of such loss or within 60 days from the date when the
31 claimant discovered that such loss had occurred. If the damage is alleged
32 to have been caused to growing crops, the report shall be filed prior to
33 the time when 50 percent of the crop is harvested.

SB 106

[24]

1 (2) Any person who claims to have sustained any loss arising out of the
2 use or application of any pesticide by any state agency, county or munici-
3 pality may file a report of loss with the department, and mail or personally
4 deliver a true copy of such report of loss to the state agency, county or
5 municipality allegedly responsible, within 60 days from the occurrence of
6 such loss or within 60 days from the date when the claimant discovered
7 that such loss had occurred. If the damage is alleged to have been caused
8 to growing crops, the report shall be filed prior to the time when 50 percent
9 of the crop is harvested.

10 (3) Upon receiving a report of loss as provided by this section:

11 (a) The department may investigate, examine and determine the
12 extent and nature of the damage alleged to have been caused to property
13 or crops. The department shall not determine the source of the damage,
14 the person who may have caused the damage or the financial extent of the
15 loss or damage. The department shall prepare and file in its office a report
16 of the investigation, examination and determination. Copies of the report
17 made by the department may be given upon request to persons who are
18 financially interested in the matter.

19 (b) The department at the request of, and without cost to, any per-
20 sons financially interested in the matter may undertake to mediate an
21 equitable settlement of the controversy.

22 (4) Upon receiving a request therefor from any person, other than
23 a person who may file a report of loss as provided by subsection (1) or
24 (2) of this section, the department may investigate, examine and determine
25 the extent and nature of damage alleged to have been caused to property
26 or crops arising out of the use or application of any pesticide by any other
27 person or any state agency, county or municipality, provided that the
28 person making such request reimburses the department for its work. The
29 department shall not determine the source of the damage, the person who
30 may have caused the damage or the financial extent of the loss or damage.
31 The department shall prepare and file in its office a report of the investi-
32 gation, examination and determination. Copies of the report made by the
33 department may be given upon request to persons who are financially
34 interested in the matter.

1 (5) Nothing in this section shall be construed as a waiver by the State
2 of Oregon or any state agency, county or municipality of any immunity
3 against suit which otherwise may exist.

4 PROTECTED AND RESTRICTED AREAS

5 SECTION 24. There hereby is created a protected area, *or restricted area* territorially
6 identical respectively with each protected area, *or restricted area* existing as of the effective
7 date of this 1973 Act, *or a restricted area established pursuant to ORS 573.537 and in effect June 1, 1973,* if such existing protected area *was established or suc-*
8 ceeded pursuant to the provisions of ORS chapter 573. Each protected area, *or restricted area*
9 hereby created shall bear the name of the formerly designated protected
10 area, *or restricted area* with which it is territorially identical. It shall succeed to the duties,
11 obligations, property, rights and privileges of such formerly designated
12 protected area, *or restricted area* and shall function as authorized by the provisions of this
13 1973 Act.

14 SECTION 25. (1) Upon receiving a petition of any 25 or more land-
15 owners, *representing at least* [or the owners of more than] 70 percent of the acres of land, situated
16 within the territory proposed to be a protected area, the department may
17 establish a protected area, in accordance with the provisions of ORS 561.510
18 to 561.590 governing the procedures for the declaration of quarantines,
19 except the consent of the Governor shall not be required.

20 (2) The petition, referred to in subsection (1) of this section, shall
21 include the following:

- 22 (a) The proposed name of the protected area.
- 23 (b) The description, including proposed boundaries, of the territory
24 proposed to be a protected area.
- 25 (c) A concise statement of the need for the establishment of the pro-
26 tected area proposed.
- 27 (d) A concise statement of the pesticides and the times, methods or
28 rates of pesticide applications to be restricted or prohibited and the extent
29 such are to be restricted or prohibited.
- 30 (e) A request that a public hearing be held by the department.
- 31 (f) The name of the person authorized to act as attorney in fact for
32 the petitioners in all matters relating to the establishment of a proposed
33 protected area.

1 (g) A concise statement of any desired limitations of the powers and
2 duties of the governing body of the proposed protected area.

3 (3) If more than one petition, referred to in subsection (1) of this
4 section, is received by the department describing parts of the same terri-
5 tory, the department may consolidate all or any of such petitions.

6 (4) Each petition, described in subsection (1) of this section, shall be
7 accompanied by a filing fee of \$125. Upon receipt of such petition and
8 payment of such fee, the department shall prepare and submit to the peti-
9 tioners an estimated budget of the costs of establishing such proposed
10 protected area, including cost of preparation of the estimated budget, of
11 the hearing and of the preparation of required documents. Within 15 days
12 of the receipt of the estimated budget, the petitioners shall remit to the
13 department the difference between the filing fee and total estimated bud-
14 get. Should the petitioners fail to remit such difference, the department
15 shall retain the filing fee and terminate the procedure for establishment
16 of a proposed protected area. If, upon completion of the procedure for
17 establishment of a proposed protected area, there remains an unexpended
18 and unencumbered balance of funds received by the department under this
19 section, such balance shall be refunded to the petitioners through their
20 designated attorney in fact.

21 (5) In making his determination pursuant to the authority granted
22 under subsection (2) of ORS 561.520, the director of the department shall
23 consider, among other factors, the following:

24 (a) The agricultural and horticultural crops, wildlife or forest industry
25 to be affected and their locations.

26 (b) The topography and climate, including temperature, humidity and
27 prevailing winds, of the territory in which the proposed protected area
28 is situated.

29 (c) The characteristics and properties of pesticides used or applied and
30 proposed to be restricted or prohibited.

31 **SECTION 26.** In addition to the filings of an order establishing a pro-
32 tected area as required by subsection (1) of ORS 561.530, a certified copy
33 of such order shall be filed with the Secretary of State, accompanied by a
34 map of a scale of at least one inch per mile, which documents shall be

1 maintained as a public record in the office of the Secretary of State. Upon
2 such required filings, the protected area shall be deemed to be a govern-
3 mental subdivision of the state and a public body corporate.

4 SECTION 27. (1) A protected area, established pursuant to the pro-
5 visions of this 1973 Act, shall be governed and administered by an area com-
6 mittee consisting of five members. The term of office of each member,
7 except as provided in paragraphs (b) and (c) of this section, shall be
8 three years. Such area committee shall be established in accordance with
9 the following:

10 (a) Within 30 days after the establishment of a protected area, as pro-
11 vided in section 26 of this 1973 Act, the department shall give notice that
12 petitions to nominate candidates for three positions on such committee
13 shall be accepted by the department. Such notice shall be given by publi-
14 cation at least once in a newspaper of general circulation in the protected
15 area and by delivery of a copy of the notice to the county clerk of the
16 county in which the protected area is situated, who thereafter shall post
17 the same in a conspicuous public place. Such notice shall contain:

18 (A) The address of the department;

19 (B) The time within which the petition to nominate is to be filed;

20 (C) The fact that 25 or more voters, or two-thirds of the voters then
21 registered, if there are less than 25, residing within the protected area
22 must subscribe such petition;

23 (D) The fact that such voters may subscribe the nominating petition
24 of more than one candidate for a position on said committee; and

25 (E) The fact that a candidate must reside within the ^{protected} [protected] area.

26 (b) Upon receipt of any nominating petitions described in paragraph
27 (a) of subsection (1) of this section, the department shall prepare ballots
28 containing the names of the candidates, in alphabetical order of surnames,
29 and a space for at least one write-in candidate. If no nominating petitions
30 are received by the department, this fact shall be stated upon the ballot and
31 at least three spaces provided thereon for write-in candidates. Such ballots
32 shall also state the time within which the ballots are to be returned to
33 the department and the address of the department. ^{all legal voters} The department shall
34 determine the results of such election and shall file with the Secretary of

*within the boundaries
of the territory as
determined by the
department are
eligible to vote
in the referendum.*

SB 106

[28]

1 State a declaration of the results of such election, which declaration shall
2 be maintained as a public record in the office of the Secretary of State.
3 The three candidates receiving the largest number of the votes cast in
4 such election shall be the three elected members of the area commission,
5 whose terms of office, to be determined by lot, shall be one, two and three
6 years respectively.

7 (c) Upon determining the results of the election provided in paragraph
8 (b) of this section, the department shall appoint two members to the area
9 committee, which appointments shall be subject to the approval of the
10 majority of the three elected members of said committee. Such appointed
11 members shall be residents of the protected area and have knowledge of
12 pesticides, pesticide application and existing conditions affecting pesticide
13 application. The terms of office, to be determined by lot, shall be one and
14 two years respectively, and the department shall thereafter appoint the
15 successors in office of such members, as well as those of elected members
16 whose office is vacated prior to the expiration of his term.

17 (2) (a) Upon the establishment of the area committee, the members
18 thereof shall designate a chairman, secretary and treasurer, which desig-
19 nations may, from time to time, be changed. A majority of the area com-
20 mittee shall constitute a quorum and an act by a majority of such quorum
21 shall constitute an official act of the area committee.

22 (b) The area committee shall:

23 (A) Provide for surety bonds for all persons entrusted with funds or
24 property of the protected area;

25 (B) Prepare and maintain accurate and complete records of all activi-
26 ties, meetings, orders and regulations of the protected area.

27 (C) Employ, as deemed necessary, persons to assist the area committee
28 in its administration and enforcement activities, including issuance of per-
29 mits to applicators;

30 (D) Not engage in the business of buying or selling pesticides;

31 (E) Promulgate, in consultation with the department, regulations as
32 provided in subsection (4) of this section;

33 (F) Carry out the procedures for the establishment of a restricted
34 area as provided in section 28 of this 1973 Act;

1 (G) Prepare and make public at annual meetings to be called by the
2 area committee chairman, annual reports and audits.

3 (H) Be authorized to receive funds from any source and use the same
4 to carry out and enforce the provisions of sections 25 to 31 of this 1973 Act.

5 (3) Each year after the establishment of a protected area and at
6 least 15 days prior to the annual meeting called pursuant to subparagraph
7 (G) of paragraph (b) of subsection (2) of this section, the area committee
8 shall notify the department of the annual meeting time. Upon receipt of
9 such notice, the department shall initiate and carry out the procedures
10 for election of members to vacancies on the area committee and shall fol-
11 low the procedures for elections provided in subsection (1) of this section.
12 The candidates shall be elected and take office as provided in subsection
13 (1) of this section.

14 (4) (a) In accordance with the provisions of ORS chapter 183, the area
15 committee shall promulgate regulations governing or prohibiting the appli-
16 cation of pesticides within the protected area, by aircraft or otherwise,
17 which relate to the time, place, method of pesticide application and other
18 matters necessary to prevent damage or injury to susceptible crops, insects,
19 wildlife or forests.

20 (b) In promulgating such regulation, the area committee shall con-
21 sider, among other things, the:

22 (A) Topography and climate, including temperature, humidity and
23 prevailing winds;

24 (B) Characteristics and properties of pesticides used or applied; and

25 (C) Location of susceptible crops, insects, wildlife or forests.

26 (c) Any interested person may petition to enlarge or restrict the regu-
27 lation of pesticide application by filing a petition to amend the regula-
28 tions of the protected area with the area committee which, in consultation
29 with the department and in accordance with the provisions of ORS chapter
30 183, shall allow or deny such petition and amend the regulations of the
31 protected area accordingly.

32 **SECTION 28.** (1) At any time after the establishment of a protected
33 area, the department at the request of the area committee of such protected
34 area, may establish a restricted area in accordance with the provisions of

SB 106

[30]

1 ORS 561.510 to 561.590 governing the procedures for the declaration of
2 quarantines, except the consent of the Governor shall not be required.

3 (2) The request, referred to in subsection (1) of this section, shall in-
4 clude the following:

5 (a) The description, including proposed boundaries, of the territory
6 proposed to be a restricted area.

7 (b) A concise statement of the need for the establishment of the restrict-
8 ed area proposed.

9 (c) A concise statement of the pesticides and the times, methods or
10 rates of pesticide application to be restricted.

11 (3) (a) In considering the establishment of a restricted area wherein
12 herbicides are to be restricted, the outer boundaries of such proposed re-
13 stricted area shall not be in excess of 10 airline miles beyond the outer
14 boundary of the protected area, and if a restricted area wherein all other
15 pesticides are to be restricted shall not be in excess of one airline mile
16 beyond the outer boundary of the protected area.

17 (b) In considering the establishment of a restricted area, the factors
18 set forth in subsection (5) of section 25 of this 1973 Act shall be considered.

19 (c) The provisions of section 26 of this 1973 Act shall apply to the estab-
20 lishment of a restrictel area, except that such restricted area shall be
21 governed and administered by the area committee of the protected area,
22 which committee shall have the same powers and duties set forth in
23 paragraph (b) of subsection (2) of section 27 of this 1973 Act, and except
24 such restricted area shall not be deemed to be a governmental subdivision
25 of this state as a public body corporate.

26 **SECTION 29.** (1) Upon receiving a petition of any 25 or more land-
27 owners, or the owners of more than 70 percent of the acres of land, situ-
28 ated within a protected area, the department may include additional
29 adjacent territory in a protected area or withdraw territory from a pro-
30 tected area. The procedures to be followed by the department in considering
31 such petition shall be those set forth in ORS 561.510 to 561.590 governing
32 the procedures for the declaration of quarantines, except that the consent
33 of the Governor shall not be required.

34 (2) (a) Upon receiving a petition of any 25 landowners, or the owners

SB 106

[30]

1 ORS 561.510 to 561.590 governing the procedures for the declaration of
2 quarantines, except the consent of the Governor shall not be required.

3 (2) The request, referred to in subsection (1) of this section, shall in-
4 clude the following:

5 (a) The description, including proposed boundaries, of the territory
6 proposed to be a restricted area.

7 (b) A concise statement of the need for the establishment of the restrict-
8 ed area proposed.

9 (c) A concise statement of the pesticides and the times, methods or
10 rates of pesticide application to be restricted.

11 (3) (a) In considering the establishment of a restricted area wherein
12 herbicides are to be restricted, the outer boundaries of such proposed re-
13 stricted area shall not be in excess of 10 airline miles beyond the outer
14 boundary of the protected area, and if a restricted area wherein all other
15 pesticides are to be restricted shall not be in excess of one airline mile
16 beyond the outer boundary of the protected area.

17 (b) In considering the establishment of a restricted area, the factors
18 set forth in subsection (5) of section 25 of this 1973 Act shall be considered.

19 (c) The provisions of section 26 of this 1973 Act shall apply to the estab-
20 lishment of a restrictel area, except that such restricted area shall be
21 governed and administered by the area committee of the protected area,
22 which committee shall have the same powers and duties set forth in
23 paragraph (b) of subsection (2) of section 27 of this 1973 Act, and except
24 such restricted area shall not be deemed to be a governmental subdivision

* On page 30, following line 25, insert: "(d) In the event that a restricted

area is established pursuant to subsection (1) of this section, the area
committee shall be expanded to include one additional member who resides in
the restricted area, but outside of the protected area. The additional
member shall be elected in accordance with Section 27 of this 1973 Act."

31 such petition shall be those set forth in ORS 561.510 to 561.590 governing
32 the procedures for the declaration of quarantines, except that the consent
33 of the Governor shall not be required.

34 (2) (a) Upon receiving a petition of any 25 landowners, or the owners

1 of more than 70 percent of the acres of land, situated within two or more
2 adjacent protected areas, the department may consolidate such adjacent
3 protected areas. The procedures shall be the same as described in subsec-
4 tion (1) of this section.

5 (b) In the event of consolidation of protected areas, the corporate
6 existence and terms of office of the area committee members of the pre-
7 existing protected areas shall terminate upon the filing of the order
8 described in section 26 of this 1973 Act. The provisions of section 26 of
9 this 1973 Act apply to the newly consolidated protected area, and all rights,
10 powers, assets and duties of the several pre-existing protected areas shall
11 be vested in, and assumed by the newly consolidated protected area.

12 (c) The establishment, organization, duties and authority of the area
13 committee of the consolidated protected area shall be in accordance with
14 the provisions of section 27 of this 1973 Act.

15 **SECTION 30.** (1) The area committee of a protected area may levy
16 and cause to be collected an ad valorem tax for the purpose of paying the
17 obligations of the protected area incurred in the administration of its re-
18 sponsibilities under this 1973 Act.

19 (2) The levy in any one year shall not exceed one-fortieth of one per-
20 cent (.00025) of the true cash value of all taxable property within the pro-
21 tected area, computed in accordance with ORS 308.207. The taxes shall be
22 levied and collected at the time and in the manner provided for the levy
23 and collection of state and county taxes, and shall be paid by the county
24 officers collecting the same to the treasurer of the protected area.

25 **SECTION 31.** In any suit, action or proceeding involving the validity
26 or enforcement of any proceeding or action of a protected area, the pro-
27 tected area shall be deemed to have been established in accordance with
28 the provisions of this 1973 Act upon proof of the filing of an ^{order} Order as re-
29 quired by section 26 of this 1973 Act. A copy of such ^{order} Order certified as
30 filed by the Secretary of State, shall be admissible evidence in any such
31 suit, action or proceeding and shall be proof of the filing and contents
32 thereof.

33 **ADMINISTRATION, PROHIBITIONS AND PENALTIES**

34 **SECTION 32.** In accordance with the provisions of ORS chapter 183,

1 the department is authorized to promulgate regulations necessary to carry
2 out the purposes and intent of this 1973 Act, including but not limited
3 to the following:

4 (1) Establish and maintain a program required for a person to work
5 or engage in the application or spraying of pesticides as a pesticide trainee.

6 In this regard, the department may take into consideration:

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

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

10 (c) Work performance records or reports to be maintained by pesticide
11 trainees or their employers.

12 (d) Acceptance of educational qualifications, applicable work or ex-
13 perience in similar or other fields in lieu of, or as a part of, periods of em-
14 ployment or work by pesticide trainees.

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

19 (f) Laws and requirements relating to other professional, trade or
20 industry trainee or apprenticeship programs in this or other states.

21 (g) Special requirements if the pesticide trainee is to apply pesticides
22 by the use of aircraft, and the advisability of allowing participation in
23 federal flight training programs to be substituted, all or in part, for train-
24 ing requirements under this 1973 Act.

25 (2) Establish and maintain classifications of the various pesticides and
26 of the various pest control or pesticide application businesses in order
27 to facilitate the licensing or certification and regulation of pesticide con-
28 sultants, operators, applicators, farmer applicators and trainees. In this
29 regard the department may take into consideration:

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

32 (b) Various methods of application of such pesticides.

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

3 (3) Designate pesticides authorized to be used or applied, or pro-
4 hibited from use or application, by persons in order to qualify for an
5 exemption under the provisions of section 22 of this 1973 Act.

6 (4) Establish and maintain classifications of pesticides and devices
7 which are deemed to be highly toxic or restricted-use pesticides or de-
8 vices. In this regard, the department ^{shall} [may] take into consideration:

9 (a) Laws and regulations of the Federal Government, including the
10 provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as
11 amended, and the Federal Environmental Pesticide Control Act.

12 (b) Laws and regulations of other states.

13 (c) Advice and counsel of experts in pesticides from industry, univer-
14 sities and colleges and other governmental agencies or bodies.

15 (5) Establish and maintain procedures whereby persons formulating,
16 distributing, selling or using strychnine, hydrogen cyanide or the pesti-
17 cides known as "1080" (sodium fluoroacetate), or any mixture containing
18 such pesticides, for commensal rodent or predatory animal control, shall
19 maintain records as to quantities formulated or stored, areas in which
20 it is used or sold and persons to whom sold.

Delete
Note: Subsection 5 was deleted by amendments

21 (6) Establish and maintain types of pesticide consultant ^{or} applicator [or]
22 [farmer applicator] examinations and reexaminations, schedules for re-
23 quired reexaminations and other measures deemed necessary for fair
24 and reasonable testing of applicants as provided in subsection (5) of sec-
25 tion 16 of this 1973 Act.

26 (7) Designate the conditions under which pesticide operators spraying
27 by aircraft may reduce, suspend or terminate the liability insurance re-
28 quired by section 15 of this 1973 Act, and the periods of time therefor. In
29 this regard, the department may take into consideration:

30 (a) Changes in climate or seasons.

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

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

33 (d) Possibilities of injury or death to persons and loss or damage to
34 real or personal property.

SB 106

[34]

1 (8) Establish the conditions and amounts allowed for deductible classes
2 in the liability insurance required by section 15 of this 1973 Act.

3 (9) Establish and maintain programs of instruction or educational
4 courses for pesticide consultants, operators, applicators and ^{private} [farmer] appli-
5 cators in cooperation with Oregon State University or others, wherein, as
6 far as ^{is} practicable, provisions are made ^{so} [to] as to allow such pesticide oper-
7 ators and applicators to participate only in the instruction or courses di-
8 rectly or indirectly related to their particular activities. Attendance of
9 ^{licensees} [licencees] may be required.

10 (10) Prepare and distribute a manual, or other form of publication,
11 containing information helpful and beneficial to persons engaged in pesti-
12 cide application or use or to persons preparing to qualify for licensing as
13 a pesticide operator, consultants, ^{or} applicator [or farmer applicator] and estab-
14 lish charges therefor.

15 (11) Establish, from time to time, advisory groups or committees to
16 assist the department in formulation of policies, plans or regulations under
17 this 1973 Act. Each member of any such group or committee so established
18 shall be entitled to compensation and expenses as provided in ORS 292.495,
19 which shall be charged to the department.

20 (12) Establish registration fees for pesticide brands and formulae or
21 formulations thereunder.

22 (13) Establish restrictions or prohibitions as to the form of pesticides
23 allowed to be mixed, applied or added to fertilizers, seed or grains.

24 (14) Establish restrictions, methods and procedures in the storage,
25 transportation, use or application of restricted-use pesticides or highly
26 toxic pesticides in order to protect humans, pollinating insects, bees, ani-
27 mals, crops, wildlife, land or environment.

28 **SECTION 33.** In carrying out and enforcing the provisions of this 1973
29 Act, the department is authorized:

30 (1) To collect samples of pesticides from any source, for analysis to
31 determine compliance with this 1973 Act.

32 (2) In accordance with the provisions of ORS 561.605 to 561.630, to
33 seize or embargo any pesticide or device which is misbranded, adulterated
34 or otherwise in violation of this 1973 Act.

tain a system for certification of private applicators. The department may take into consideration the provisions of the Federal government, including the Environmental Pesticide Control Act of 1972,

SB 106

[34]

- 1 (8) Establish the conditions and amounts allowed for deductible classes
2 in the liability insurance required by section 15 of this 1973 Act.
- 3 (9) Establish and maintain programs of instruction or educational
4 courses for pesticide consultants, operators, applicators and ^{private} [farmer] appli-
5 cators in cooperation with Oregon State University or others, wherein, as
6 far as ^{is} practicable, provisions are made ^{so} [to] as to allow such pesticide oper-
7 ators and applicators to participate only in the instruction or courses di-
8 rectly or indirectly related to their particular activities. Attendance of
9 ^{licensees} [licencees] may be required.
- 10 (10) Prepare and distribute a manual, or other form of publication,
11 containing information helpful and beneficial to persons engaged in pesti-
12 cide application or use or to persons preparing to qualify for licensing as
13 a pesticide operator, consultants, ^{or} applicator [or farmer applicator] and estab-
14 lish charges therefor.
- 15 (11) Establish, from time to time, advisory groups or committees to
16 assist the department in formulation of policies, plans or regulations under
17 this 1973 Act. Each member of any such group or committee so established
18 shall be entitled to compensation and expenses as provided in ORS 292.495,
19 which shall be charged to the department.
- 20 (12) Establish registration fees for pesticide brands and formulae or
21 formulations thereunder.
- 22 (13) Establish restrictions or prohibitions as to the form of pesticides
23 allowed to be mixed, applied or added to fertilizers, seed or grains.
- 24 (14) Establish restrictions, methods and procedures in the storage,
25 transportation, use or application of restricted-use pesticides or high-

1 (3) Notwithstanding the provisions of ORS 561.605 to 561.630, when-
2 ever the department has reasonable cause to believe a pesticide or device
3 is being formulated, distributed, stored or transported in violation of any
4 of the provisions of this 1973 Act, to issue and serve a written "stop sale,
5 use or removal" order to and upon the owner or person in custody of any
6 such pesticide or device. In the event the owner or person in custody is
7 not available for service of the order, the department may attach a copy
8 of the order to the pesticide or device. Upon issuance of the order, the
9 pesticide or device shall not be sold, used or removed until the provisions
10 of this 1973 Act have been complied with and the pesticide or device has
11 been released, by written notice of the department, under conditions speci-
12 fied by the department.

13 (4) In accordance with the provisions of ORS chapter 183, to revoke,
14 suspend or refuse to issue or renew any license or certificate if it determines
15 that an applicant, licensee or certificate holder has violated any of the
16 provisions of this 1973 Act.

17 (5) In accordance with the provisions of ORS chapter 183, to amend,
18 suspend or revoke the registration of a pesticide for violation of any of
19 the provisions of this 1973 Act.

20 (6) To establish limitations and procedures deemed necessary and
21 proper for the protection of persons, pollinating insects, bees, animals,
22 crops, wildlife, land or environment, on the following:

23 (a) Quantities of packages;

24 (b) Quantities of sales;

25 (c) Uses or applications;

26 (d) Methods of sale, including prescription or permit requirements; or

27 (e) Persons to whom sold.

28 (7) To inspect any records required to be maintained by persons for-
29 mulating, distributing, using or selling the pesticides described in sub-
30 section (5) of section 32 of this 1973 Act, and to cause monitoring of the
31 effects of such pesticides on human or animal life in any area where it is
32 used or applied by a recognized and qualified person or agency.

33 (8) To enter into cooperative and reciprocal agreements with the Fed-
34 eral Government, or any of its agencies, for the purpose of enforcement

SB 106

[36]

1 of the provisions of this 1973 Act or federal laws and regulations on the
2 same subject matters, and to receive and expend funds pursuant to such
3 agreements in furtherance of such purpose.

4 (9) To cooperate with, and request the assistance of, Oregon State
5 University, governmental agencies or other persons for the purpose of
6 enforcement of the provisions of this 1973 Act.

7 (10) (a) To act jointly in, and with the concurrence of the State For-
8 ester and a research specialist designated by Oregon State University, the
9 issuance of permits for the use of isopropyl ester of 2,4-D or any other
10 ester of equal or higher volatility with regard to plant damage. Each such
11 permit shall specify:

12 (A) The particular ester allowed;

13 (B) The boundaries of the area in which it may be used; and

14 (C) The prescribed time limit and condition under which it may be
15 applied.

16 (b) Such permits shall only be issued when the issuing authority de-
17 termines that the use of the ester will not damage agricultural and forest
18 products and susceptible crops. In making such determination, the issuing
19 authority shall consider research data, topography, climate, temperature,
20 humidity, prevailing winds, characteristics of the ester and location of
21 agricultural and forest products and susceptible crops. Such permits may
22 be issued subject to conditions prescribed by the issuing authority. Issu-
23 ance of such permit shall not be construed as a waiver of any of the provi-
24 sions of this 1973 Act.

25 **SECTION 34.** No person shall:

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

28 (2) As a pesticide applicator or operator, intentionally or wilfully apply
29 or use a worthless pesticide or any pesticide inconsistent with its labeling,
30 or as a pesticide consultant or dealer, recommend or distribute such pesti-
31 cides.

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

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

3 (5) Refuse or neglect to prepare and maintain records required to be
4 kept by the provisions of this 1973 Act.

5 (6) Make false, misleading or fraudulent records, reports or applica-
6 tion forms required by the provisions of this 1973 Act.

7 (7) Operate pesticide ^{applicators} [application] apparatus, ^{machinery} [devices] or equipment with-
8 out a licensed pesticide applicator performing the actual application, or
9 supervising such application if such is performed by a pesticide trainee.

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

14 (9) Formulate, distribute, sell or use the pesticide known as "1080"
15 (sodium fluoroacetate), or any mixture containing such pesticide, except
16 for the purposes set forth in section 7 of this 1973 Act.] *Note: Subsection (9) was*
deleted by amendments

17 (10) As a pesticide operator, engage in the business of, or represent
18 or advertise as being in the business of, applying pesticides upon the land or
19 property of another, without first obtaining and maintaining a pesticide
20 operator's license, nor shall such person engage in a class of pesticide
21 application business which is not specifically authorized by license issued
22 by the department. Further, no such person shall employ or use any person
23 to apply or spray pesticides who is not a licensed pesticide applicator or
24 pesticide trainee.

25 (11) As a pesticide trainee, work or engage in the application of any
26 class of pesticides without first obtaining and maintaining a pesticide
27 trainee's ^{certificate} [license] and is otherwise in compliance with the provisions of this
28 1973 Act.

29 (12) Act, or represent himself, as a pesticide dealer or advertise him-
30 self as such without first obtaining and maintaining a pesticide dealer's
31 license.

32 (13) Act, or represent himself, as a pesticide consultant without first
33 obtaining and maintaining a pesticide consultant's license.

34 (14) Apply any pesticide classified as a restricted-use or highly toxic

SB 106

[38]

or forest
~~of the~~

1 pesticide to agricultural, ^{or} horticultural crops on land owned or leased
2 by him without first obtaining and maintaining a ^{private applicator certificate} farmer applicator license

3 (15) As a person described in subsection (5) of section 22 of this 1973
4 Act, use power driven pesticide application equipment or devices (use
5 hand or backpack types only), or use or apply any pesticide other than
6 those prescribed by the department.

7 (16) Deliver, distribute, sell or offer for sale any pesticide which is
8 misbranded.

9 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide
10 which is adulterated.

11 (18) Formulate, deliver, distribute, sell or offer for sale any pesticide
12 which has not been registered as required by section 7 of this 1973 Act.

13 (19) Formulate, deliver, distribute, sell or offer for sale any powdered
14 pesticide containing arsenic or any highly toxic fluoride which is not
15 distinctly colored.

16 (20) Distribute, sell or offer for sale any pesticide except in the manu-
17 facturer's original unbroken package.

18 (21) Make application of pesticides, by aircraft or otherwise, within a
19 protected or restricted area without first obtaining a permit for such appli-
20 cation from the committee of the protected or restricted area in which
21 the application is to be made, nor shall such person make such application
22 contrary to the conditions or terms of the permit so issued.

23 (22) Use isopropyl ester of 2,4-D, or any other ester of equal or higher
24 volatility with regard to plant damage as determined by the department,
25 without first obtaining a permit for such use as provided in subsection
26 (10) of section 33 of this 1973 Act.

27 (23) Sell, use or remove any pesticide or device subjected to a "stop
28 sale, use or removal" order until the pesticide or device has been released
29 therefrom as provided in subsection (3) of section 33 of this 1973 Act.

30 **SECTION 35.** The department shall deposit all fees and moneys paid
31 to it under the provisions of this 1973 Act in the General Fund in the
32 State Treasury to the credit of the Department of Agriculture Account.
33 Such account and all moneys collected or due ^{to} the department prior to

?
see p. 36
Line 9



1 the effective date of this section are continuously appropriated to the de-
2 partment for the purpose of administering and enforcing the provisions of
3 this 1973 Act.

4 **SECTION 36.** Violation of any of the provisions of this 1973 Act is
5 an unclassified misdemeanor and is punishable, upon the first conviction,
6 by a fine of not more than \$1,000, or by imprisonment in the county jail
7 for not more than one year, or both, and upon a second or additional con-
8 viction, by a fine of not more than \$2,000, or by imprisonment in the county
9 jail for not more than one year, or both.

10 **SECTION 37.** ORS chapters 573 and 634 (1971 Replacement Parts) are
11 hereby repealed.

12 **SECTION 38.** Unit citations are only for convenience and are not part
13 of the statute law of this state.



SB106 49 D

3/1/73
adopted

OREGON STATE ARCHIVES

S. AG. & NAT. RES. COM.

STATEMENT ON SB106

to the

SENATE COMMITTEE

on

AGRICULTURAL AND NATURAL RESOURCES

by

Robert A. Gresbrink, Director

Vector Control Program

Oregon State Health Division

March 1, 1973 D

We have no objections to the provisions of SB106 relating to pesticide controls as the bill now reads.

The following amendment to Senate Bill 106 is offered for your consideration:

On page 6, line 15 of the printed bill, after "the" delete "State Board of Health" and insert in lieu thereof, "Health Division, Department of Human Resources".

Statement to Senate Agriculture & Natural Resources Subcommittee
on SB 106 by George F. Babits, Vice President, Northwest Christmas
Tree Association

The Northwest Christmas Tree Association is a non-profit group organized in Oregon and Washington to further the development of high quality Christmas trees. There are some 400 members of which about 225 reside in Oregon. There are some 450 plantations in Oregon with a total acreage of 11,000. In addition there are 8 to 10,000 acres in natural stands which are cultured. The wholesale value of the annual harvest is about 2½ million dollars based on an annual cut in Oregon of 825,000 trees.

All plantation acreage in Oregon but for about 800-1000 acres, is located west of the Cascades with Benton, Clackamas and Marion counties leading.

The Board of Trustees of the NWCTA at its meeting on February 10th of this year voted to express opposition to, and concern for, certain portions of SB 106. I wrote Senator Meeker about this shortly after that meeting and that is why I am here.

Christmas tree growers are governed by the Oregon Forest Practices Act which took effect on July 1, 1972 insofar as the application of chemicals and fertilizers on Christmas tree plantations is concerned. The Act requires notification to the State Forester of practices to be carried out. These practices are subject to inspection and approval by the State Department of Forestry.

With respect to chemical applications the Act requires that the applicator maintain a record of operation giving the date, time of day, temperature, wind velocity and direction, mode of application, operator and location. The records must be held for three years and are subject to inspection and review.

AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF APRIL 13, 1973

SB 106

SB 106 would revise provisions relating to the application, registration, control and use of pesticides in this state. It would create a Committee on Synthetic Chemicals in Environment to provide advisory information to the Department of Agriculture and other state agencies in the evaluation and disposition of pesticides and other chemicals. It would require the classification, registration, labeling and food tolerances of pesticides and exemptions. It would provide for the licensing of pesticide consultants, dealers, operators, applicators and private applicators as well as trainees and would authorize the Department of Agriculture to conduct examinations of these positions.

Mr. Bill Koesan, of the Department of Agriculture, stated that the bill was designed to bring Oregon into the requirements of the Federal law. He explained each section in some detail.

(Note: End Tape 15, Side 2. Begin Tape 16, Side 1.)

Representative Jones asked that "farmer" be included in Section 6. No action was taken at this time.

Representative Martin asked that HB 2658 (Bakeries) be scheduled as soon as possible. This was noted as was a request from Representative Paul Hanneman to do SB 202.

Karen Kunkel, representing the Oregon Environmental Council, gave a written testimony to the members stating that they would like to see SB 106 become a truly model pesticide control act by banning poisons such as sodium fluoro-acetate (1080), thallium sulfate, strychnine sulfate and hydrogen cyanide. The report stated that an estimated fatal dose that would kill a 157 lb. man would only take .034 ounces of thallium sulfate; .0034 ounces of strychnine sulfate; .0051 ounces of "1080"; add .01 ounces of hydrogen cyanide.

Mr. Jack Holland, of Portland, representing the Western Agricultural Chemicals Association, stated that he was a pesticide sales representative and felt the bill was a good one.

Mr. George F. Babits, representing the Northwest Christmas Tree Association, stated that the bill was generally acceptable to them. There was one point which he raised - and recommended - the inclusion in the Committee of a farmer. They also felt the wording on page 30, line 7 should be changed to the same wording as that used in page 24, lines 15 and 16, and again in page 29, lines 33 and 34.

Representative Sumner made the motion to adopt the suggested amendment of Mr. Babits. The motion to adopt was agreed upon by unanimous consent.

AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF APRIL 13, 1973

SB 106 (Continued)

Mr. Carroll M. Smithson, representing the Izaak Walton League gave a prepared statement which stated the League's position on pesticides, their use and control. Essentially they believe that controls should be directed toward specific targets.

Mr. Jim Corlett, representing the Oregon Forest Protection Association, spoke briefly in support of the bill as amended by the Senate.

Mr. Dave Nelson, representing the Oregon Farm Bureau Federation, stated that he believes such controls are necessary, but he has found that a very limited evidence of abuse has been attributed to agricultural people. He added that he felt consumers should also be on the Commission as well as farmers. Regarding page 35, line 23, he felt the reference to isopropyl ester, 2,4-D, should be deleted as the agency should be left to handle specific chemicals.

Mr. Jack Sitzmeister, a farmer from the Hood River Valley, stated that he was concerned that the bill refers to all synthetic hormones as he thought it was concerned with the regulation of pesticides. He has found thrip to be building up in his apple and pear orchards. DDT was used to control thrip but since it was eliminated there has been no alternative chemical to use to control the bug population. Regarding page 37 of Section 34 - Item 14 - he would like to see a private applicator on the Commission but he doesn't feel this Item 14 is very workable as the workers are usually mobile and do not stay to work for long periods.

Representative Jones felt this should be spelled out better so the owner is responsible whether or not he is actually operating the sprayer when applying pesticides.

Mr. Sitzmeister also wanted it spelled out as to whether you have to spray yourself or can allow the hired hand to do it. He felt there would be a problem of getting hired hands certificated and then having them quit and hiring someone else and getting them certificated too.

Mr. Kosesan said that no fee would be required for operator trainees but he wasn't sure whether or not they would be required to get separate certifications.

No further action was taken at this time. A work session will be set up the first week of May at which time Mr. Kosesan will bring further information to the committee members.

SB 116

Mr. Kosesan, of the Department of Agriculture, spoke briefly on SB 116, explaining the Senate amendments. The bill would require a person or contract feeder who manufactures animal feed and uses drugs, to keep accurate records of the drugs used for at least one year.

Representative Jones felt there was no real use for keeping such records except for further confusing the farmers. Representative Magruder agreed, adding that farmers would need to hire secretaries just to keep their farm records.

AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF TUESDAY, MAY 22, 1973

SB 117 (Continued)

(2) A person who is a contract feeder or who manufactures, mixes or processes feed solely for his own animals is not subject to the provisions of subsection (1) of this section, provided no drugs in any form are utilized in the manufacturing, mixing or processing of such feed. In the event drugs are so utilized, the contract feeder or person using the same shall be subject to the provisions of subsection (1) of this section..

In accordance with the provisions of ORS chapter 183, the department may by rule establish the types or categories of contract feeders or persons manufacturing, mixing or processing feed solely for their own animals, to be exempt from this section, and in this regard may consider:

- (a) Methods of manufacture, mixing or processing of feed;
- (b) Quantities and types of drugs used;
- (c) Number and ages of animals to which such feed is to be made available."

After much discussion, it was thought that perhaps the bill could be rewritten so that the Agriculture Department could establish areas with a public hearing. Mr. Allen was present, and explained that their main concern was to get legislative authority to act so that the Federal law won't preempt Oregon laws.

It was suggested that Mr. Kosesan re-work the amendments to reflect this discussion. No further action was taken at this time.

SB 106

Mr. Allen explained that this bill had been considered at a public hearing on April 13 and again at a work session on the 17th of May. There were two areas of concern voiced at the work session. One was that a farmer be placed on the committee and the other was the licensing of tractor operators who are not the owners of the land. He offered an amendment to take care of the second situation, but he felt that a farmer on the commission would have a vested interest.

AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF TUESDAY, MAY 22, 1973

SB 106 (Continued)

Representative Bunn could see no valid reason why a farmer should not be on the committee since he would have experience and would have some idea of the problems likely to be encountered on farms when using the pesticides. Representative Stevenson and Chairman Byers also agreed.

No further action was taken at this time.

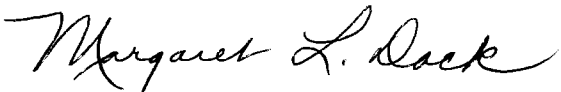
TUSSOCK MOTH

Representative Peck brought an article sent to her by a friend from the ORGANIC GARDENING AND FARMING magazine which stated that a powerful insect-killer made from small sea creatures is considered more effective than DDT but is completely safe. It is being used in Japan extensively and is made from the Isole sea slug (a slimy, wormlike animal) that has no harmful effects on plants and animals - but no known insect can survive it. Scientists in Japan have made the compound synthetically and call it "PADAN". This substance paralyzes the insect and starves it. It does cause some loss of leaves when it is used on cotton crops or delicious apple trees.

It was the concensus of the members that perhaps some research in the United States should be done to see if the PADAN compound would have an effect on the Tussock Moth.

Meeting was adjourned at 9:55 a.m.

Respectfully submitted,



(Mrs.) Margaret L. Dack
Committee Clerk

5-23-73

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF FRIDAY, MAY 25, 1973

HB 3220 (Continued)

On page 3, line 25, delete "board", insert "department".

On page 3, line 26, delete "The committee shall consist of five members appointed by the Gov-".

On page 3, delete lines 27 through 34.

On page 4, line 1, delete "board" insert "department".

Chairman Byers made the motion to adopt the amendments as proposed. On a roll call vote, Representatives Gilmour, Bunn, Jones, Peck, Patterson, Markham, Stevenson and Byers voted "Yes", while Representative Magruder voted "No". Motion carried.

Representative Magruder proposed an amendment to allow the Artificial Insemination Technicians to pregnancy test animals without being licensed and he asked the administrative assistant to draft an amendment to that effect. He doesn't feel that licensing makes any one better or more competent.

Representative Jones made a motion to correct the amended portion of the bill by eliminating the word "poultry" wherever it appears in the bill, and by inserting "for compensation" after "animals" on page 2, line 15 (Section 3, Subsection (1)(a)) and again on page 2, line 19, after "insemination" inserting "for compensation" (Section 3, Subsection (1)(b)). On a roll call vote, Representatives Gilmour, Bunn, Jones, Magruder, Peck, Patterson, Stevenson and Byers Voted "Yes". Motion carried.

Representative Stevenson then made the motion to send HB 3220 to the floor with a "Do Pass as Amended" recommendation. On a roll call vote, Representatives Bunn, Jones, Peck, Patterson, Stevenson and Byers voted "Yes", while Representatives Gilmour and Magruder voted "No". Motion carried. Representative Patterson was assigned to carry the bill.

Representative Magruder, however, served notice of possible reconsideration of the minority report on this bill. Representative Patterson asked that the committee report not be prepared until the minority report is prepared at the next meeting.

SB 106

Mr. Kosesan was present to answer questions as was Mr. Mann, both of the Department of Agriculture. Amendments were prepared as follows:

On page 12 of the printed engrossed bill, line 20, after "pesticides", insert "by a licensed pesticide applicator or certified private applicator".

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE
MINUTES OF FRIDAY, MAY 25, 1973

SB 106 (Continued)

In line 23, delete the semicolon and after "or" insert "a certified private applicator; or".

On page 36, line 21, after "applicator" insert "or certified private applicator".

In line 22, after the period, insert "This prohibition does not apply to the operation of tractors, trucks or other vehicular equipment used only under the supervision of a certified private applicator."

Representative Markham then made the motion to send SB 106 as amended to the floor with a "Do Pass as Amended" recommendation. On a roll call vote, Representatives Bunn, Jones, Peck, Patterson, Markham, Stevenson and Byers voted "Yes", while Representatives Gilmour and Magruder voted "No". Motion carried. Representative Stevenson was assigned to carry the bill.

SB 116

Amendments were adopted to SB 116 at the May 24th meeting. Representative Jones made the motion to send SB 116 to the floor with a "Do Pass as Amended" recommendation. On a roll call vote, Representatives Gilmour, Bunn, Jones, Peck, Markham, Stevenson and Byers voted "Yes", while Representative Magruder voted "No". Motion carried. Representative Bunn was assigned to carry the bill.

HB 2139

This bill was heard on February 20 and March 15. Amendments were sent to the committee members as follows:

On page 2 of the printed bill, line 4, delete "6" and insert "5".

Delete lines 11 through 34 and insert:

"SECTION 3. (1) In accordance with any applicable provision of ORS 183.310 to 183.500, the department may promulgate rules to carry out the purposes of this 1973 Act, including but not limited to:

"(a) The foods or raw agricultural products required to be inspected and to be subject to the prohibition set forth in Section 4 of this 1973 Act.

"(b) The establishment of the size, content and placement of a public notice stating that a food or raw agricultural product has not been subject to State of Oregon, federal or equivalent inspection, if such be the case.

House Agriculture and Natural Resources Committee
Minutes of Tuesday, June 12, 1973

SB 117 (Continued)

Delete lines 23 through 31 and insert:

"Section 7. ORS 570.415 is amended to read:

"570.415. [The director may, at any time he believes such action necessary, revoke any order concerning control areas made by him by giving] An order establishing a control area shall be effective within a county until such time as the governing body of the county files with the department a determination that control activities have been completed. The county governing body shall also give notice of such determination in a newspaper published within or near the control area or lands affected and filing proof thereof with the county clerk of the county."

Mr. Moose was present to answer questions of the committee. He did state that although he was asked to prepare some amendments to this bill on the Senate Agriculture Committee, by the time he returned to the committee, they had already passed their own and sent the bill to the Senate floor for passage.

Representative Jones made the motion to send the bill to the floor with a "Do Pass as Amended" recommendation. On a roll call vote, Representatives Gilmour, Jones, Patterson, Markham and Byers voted "yes", while Representatives Sumner, Peck and Stevenson voted "no". However Representative Stevenson changed his vote to "yes" in order to get the bill to the floor. Motion carried.

Representative Jones volunteered to carry the bill.

SB 106

Representative Sumner explained why he requested the bill to be returned to committee. (He had been excused for House Revenue Special Meetings and was not present when the bill passed out of committee.) He noted that there were some technical amendments that had been overlooked, as follows:

On page 30 of the printed re-engrossed bill, line 12, after "25" insert "or more", and in the same line, delete "or the owners" and insert "representing at least".

House Agriculture and Natural Resources Committee
Minutes of Tuesday, June 12, 1973

SB 106 (Continued)

On line 13, delete "of more than".

This would bring Section 29 into line with the language in Section 25.

End Tape 21, Side 1. Start Side 2.

Mr. Kosesan was present to answer questions of the committee on the bill.

Representative Jones moved the adoption of the amendments as suggested above. On a roll call vote, Representatives Sumner, Jones, Gilmour, Peck, Patterson, Markham, Stevenson and Byers voted "yes". Motion carried.

Representative Jones then made the motion to send the bill to the floor with a "Do Pass as Re-Amended" recommendation. On a roll call vote, Representatives Sumner, Jones, Peck, Patterson, Markham, Stevenson and Byers voted "yes", while Representative Gilmour voted "no". Motion carried.

Representative Stevenson volunteered to carry the bill.

SJM 5

This bill was re-referred to committee by Representative Gilmour. He felt that the motion to send the bill to the floor with no amendments was misunderstood. He asked that the committee consider some amendments that were prepared by the administrative assistant, as follows:

On page 2 of the printed engrossed bill, after line 8, insert: "Whereas the Douglas Fir tussock moth has severely damaged and destroyed several hundred thousand acres of standing timber in Eastern Oregon; and".

On page 3, line 1, after the first "of" insert "all", and in the same line after "orchards" insert ", trees and fruits,", and in the same line after "and" insert "all the horticultural damage in".

S.P. 106

588-5346

15
S.P. 106
APR 13, 1973
EXHIBIT 8
LOT 2 P 85

OREGON STATE ARCHIVES

H. AG. & NAT. RES. COM.

Bill Hellie
2455 Franny Ave N.E.
Salem, Ore
Marion Co. Dept of Health

1080 ~~##~~ returned

Tuesday
11:00

SB 106
APRIL 13, 1973
EXHIBIT 2

OREGON STATE ARCHIVES
L. AG. & NAT. RES. COM.

Modifies ~~chapter 200~~ pesticide applicator license and certificate exemption to ~~the~~ apply to those ~~existing~~ licensed or certified applicators when the actual application is done by a licensed or certified person.

Modifies prohibition against ~~the~~ use of application equipment to require license or certificate for such use. Exempts from prohibition operation of ~~such~~ vehicular equipment under supervision of certified applicator.

Testimony on SB106
April 13, 1973
Karen Runkel, Oregon Environmental Council

We are concerned about SB106 because it doesn't put a specific prohibition on four poisons which are highly toxic--namely sodium fluoroacetate (1080), thallium sulfate, strychnine sulfate and hydrogen cyanide.

This prohibition is recommended because of the grave danger even a small amount of these chemicals can present. To get a better idea of just how poisonous they are, I referred to a manual on poisons which is available in the state library (Jay Arena, M.D., Poisoning - Toxicology - Symptoms - Treatment). On page 133 of this text is a table which gives the estimated dose in grams necessary to kill a 70 kg. person--I have converted these units to ounces necessary to kill a 157-pound man:

Estimated fatal oral dose

ounces/157 lb.

Thallium sulfate	.034
Strychnine sulfate	.0034
"1080"	.0051
Hydrogen cyanide	.01

When used to poison predators and rodents, these poisons are typically accessible to a wide range of wildlife, often causing destruction of innocent animals. Thallium sulfate and 1080 also cause secondary poisoning, adding to their danger. Lack of effective antidotes is another reason to prohibit these poisons.

Action has been taken on the Federal level to restrict use of these toxic chemicals--we would like to see SB106 become a truly model pesticide control act by banning the poisons that endanger so greatly so much that is precious to us as Oregonians.

S B 106

Under "Registration, Sale & Use" Section 7 (1), Page 7, beginning line 23, it is stated that every brand and each formula or formulation there-under of pesticide manufactured, -- etc. -- shall be registered each year with the dept. Sub section (5) Page 8, beginning line 10, it is stated that - the application for registration shall be accompanied by a registration fee to be established by the dept. -- etc. -- which shall not exceed 40.00 -- etc. It is understood that under ORS Chapter 183, Administrative Procedures, that change in registration fee can only be made after public hearing.

In keeping with the above, we propose that various sections of SB 106 be amended so that the license and certification fees be changed to read so that the fee is established by the dept. and shall not exceed "X" amount. The sections involved are:

- Section 15 (3) (a) Page 14 Pesticide Operators License
- Section 15 (14) (a) Page 17 Public Applicator License
- Section 15 (14) (a) Page 17 Public Trainee Certificate
- Sections 16 (4) (a) & (b) Page 18 Pesticide Applicator License
- Section 18 (1) Page 19 Pesticide Consultant License
- Section 19 (1) Page 20 Pesticide Dealer License
- Section 20 (1) Page 21 Pesticide Farmer Applicator License

Original Bill changed to do this.

I was impressed with the proposal for the Motor Vehicle Division that Registration be changed to a 4 year period so as to reduce the administrative burden and costs of the annual registration.

SB 106
APRIL 13, 1973
2 of 2 PAGES
EXHIBIT 6

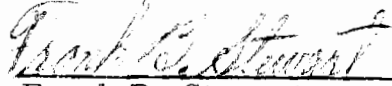
OREGON STATE ARCHIVES

H. AG. & NAT. RES. COM.

In keeping with the above, we propose that to reduce the administrative burden on the dept., that licenses and certificates be issued on a multi-year bases with annual notification by the individuals that they will continue to operate under the license or certificate. At the end of the multi-year period re-examination may be required. These people are professional contrary to some opinion.

The enforcement burden of the new Federal Environmental Pesticide Control Act (FEPCA) is being thrown on the various States without funding, in so far as can be determined. We are not in agreement that the State should carry the enforcement provisions without Federal funding.

We are sympathetic that the dept. need funds, but believe that the Registration and License fees proposed are for enforcing FEPCA, are excessive as proposed and an added burden on Oregon's Agriculture and must be established only after Public Hearings and with the least additional Administrative burden on the Department of Agriculture.



Frank B. Stewart
Vice President
The Chas. H. Lilly Co.

Member of Committee on Synthetic Chemicals in the Environment
Past President - Western Agricultural Chemicals Assn.
Past Director - National Agricultural Chemicals Assn.

8
SB 106
EXHIBIT 7
APRIL 13, 1973
1 of 7 pgs.

OREGON STATE ARCHIVES
H. AG. & NAT. RES. COM.

THE CHAS. H. LILLY CO.

To: All Personnel
From: Frank Stewart

April 18, 1973

Please read the attached review so as to have a better understanding of the key provisions of the new federal law (FEPCA).

This law, more than before, pin-points the actions of each of us in how we perform and the necessary care we must give to our job assignments.

As examples, but not limited to:

For Production - Warehousing and Shipping

Quality Control - Cross Contamination - Labeling - Shipping, and Housekeeping must receive constant attention. Civil Penalties, Criminal Fines, and Imprisonment are the alternates.

For Sales Personnel - Order Desks - Advertising

The above penalties and fines are extended to use inconsistent to label. Recommendations and comments must be per label without the etc. of our knowledge beyond the label. No sale can be made where we have knowledge that a product may be used inconsistent to label.

FS/jb

9
SB106
APRIL 13, 1973
2 of 7 Pgs.
EXHIBIT 7

OREGON STATE ARCHIVES

A REVIEW OF THE FEDERAL ENVIRONMENTAL PESTICIDE
CONTROL ACT OF 1972

H. AG. & NAT. RES. COM.

J. E. Dewey, R. F. Pendleton and S. A. McDonald
Cornell University and The United States
Department of Agriculture

Since 1947 federal controls over pesticides have been administered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Areas controlled by this Act included federal pesticide registration, interstate shipment of pesticides, penalties for misbranded or adulterated products, and state registration.

On October 21, 1972 a new Act to amend FIFRA was signed into law. It is known as the Federal Environmental Pesticide Control Act (FEPCA) and is administered by the Environmental Protection Agency. This Act replaced FIFRA. Under FEPCA broader control of pesticides and their application is realized than under the old FIFRA. For the first time there is legislation of control over the user of pesticides. Penalties for misuses of pesticides are also specified.

An important part of the new Act provides for classification of all pesticides into two categories, those for general use and those for restricted use. Pesticides classified "restricted" may be applied only by certified applicators. Those using restricted pesticides only on their own property or on property of others without payment are called private applicators while those using pesticides on other properties for hire are designated as commercial applicators.

FEPCA controls the distribution, sale and use of pesticides within each state as well as between states. FIFRA controlled movement only interstate. The states, however, retain the power to legislate further restrictions on use of a particular pesticide, but cannot require any additional labeling or alter packaging requirements. The states and EPA alone have the responsibilities for restricting pesticides. It is not the intent of FEPCA that state subdivisions such as town or county have such powers.

Regulations are also to be established for storage and disposal of pesticides and their containers. Under certain conditions indemnities will be paid to persons who have quantities of a pesticide on hand when the registration of the product is suspended. There are several other provisions that are new under FEPCA and some carry over from FIFRA. The emphasis given in this review will be primarily on those regulations of primary interest to the user rather than the manufacturer.

Some of the sections of law under FEPCA become effective immediately, while rules and regulations must be written for other sections. Classification of pesticides and certification of applicators will be time consuming. In order that guidelines, rules and regulations and application of FEPCA be as

SB 106
APRIL 13, 1973
3 of 7 PGS.
EXHIBIT 7
OREGON STATE ARCHIVES
H. AG. & NAT. RES. COMM.

orderly and workable as possible in fulfilling the intent of the legislators, a timetable of implementation has been set up. All sections are to be fully implemented and activated within four years of signing the Act into law. In the meantime FIFRA regulations will continue until those of FEPCA are activated.

Comparison of Key Provisions

Registration of Products

FIFRA

FEPCA

Products covered

Only those moving interstate

Those moving both within a state and between states.

A state may register products used and produced completely within its borders.

All pesticides used in U.S. must be registered with EPA. In cases of "special local needs" authority may be granted the states to register pesticides. Pesticides must be reregistered every five years.

Classification

All products are classified for general use, subject to directions on label.

Classified for either general use or restricted use. Those classified restricted can be used only by a certified applicator and may be further restricted by the Administrator of EPA.

Data required

EPA can use any information in its files to evaluate an applicant's request for registration.

EPA cannot use data submitted by one applicant to register a product submitted by a second applicant unless first applicant gives permission. The first applicant can demand reasonable compensation from others wishing to use his data.

SB 106
APRIL 13, 1973
4 of 7 pgs.
EXHIBIT 7

OREGON STATE ARCHIVES

FEPCA
E. AS. & NAT. REG. CODE

FIFRA

Control of Use

Certification of Applicators

None

States are encouraged to submit plans for certification under EPA standard. EPA is authorized to enter into cooperative agreements with the states for training and certification and may withdraw approval if state administration becomes unsatisfactory.

Experimental use permits

Limited authority.

EPA may issue permits allowing applicant for registration to gather field data under controlled conditions. States can be authorized by EPA to issue experimental permits.

Penalties for users

None. Only control is over interstate shipment of misbranded (adulterated or mislabeled) products.

Provides civil penalties and criminal fines and imprisonment for shipment of misbranded products and for "use inconsistent with specifications on the label". Penalty limits are specified for both private and commercial applicators.

Registration of Establishments

None

Each establishment producing pesticide products must register with EPA and information on production and distribution of said products. Includes people such as PCO's who formulate for their own use on jobs, but does not include dealers.

Inspection of Establishments

None.

EPA or designees may enter establishments for purposes of inspection. A written statement as to reason for the inspection including suspected violations must be given to the operator of the establishment.

SB106
APRIL 13, 1973
5 of 7 PGS
EXHIBIT 7

OREGON STATE ARCHIVES
FEPCA H. AG. & NAT. RES. COM.

FIFRA

Indemnities

None.

Indemnity payments to be made to any person who owns any quantity of a pesticide and who suffers losses due to suspension and cancellation of registration.

Exemption of Federal Agencies

Not covered.

Federal agencies are covered. EPA can exempt any federal or state agency from any provisions of this Act under emergency conditions.

Disposal and Storage

Procedures

None.

EPA will issue regulations for the storage and disposal of pesticides.

Disposal sites

None.

EPA to accept and dispose of surplus amounts of pesticides that have had their registrations suspended and cancelled.

Monitoring

None.

EPA to research (including grants and contracts) and develop national plan for monitoring and undertake such monitoring where desirable. To include soil, water, air, man, plants, and animals.

State Cooperation, Aid, and Training

None.

EPA can delegate enforcement to cooperating states through grants-in-aid and contract for training of certified applicators.

Authority of State

Control over products within the state

States can establish stricter standards but cannot establish more permissive standards. Cannot impose different requirements for labeling or packaging. If authorized by EPA the state may register pesticides formulated for distribution within the state to meet special local needs.

SB 106
APRIL 13, 1973
6 of 7 pgs.
EXHIBIT 7
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R. AG. & NAT. RES. COM.

Schedule for Implementing FEPCA

The following timetable is that proposed by the Environmental Protection Agency for implementing the various sections of the Act. Much of this schedule is specified in the Act. Because it regulates a complex industry, subject to differing pests, climates, geographical conditions, etc. a substantial amount of time is needed to fully activate the law. Realizing this, our legislators have allowed a period of four years from the time of signing (October 21, 1972) until final implementation. However, the Environmental Protection Agency has set differential dates for enactment of various sections of the Act. These are deadline dates; states are encouraged to complete their plans as early as possible. Many of the sections are already in force. Those areas that are not yet under FEPCA are still administered under the provisions set forth in the old law, FIFRA.

Timetable - most sections of FEPCA become effective immediately.

The amendments to FIFRA as stated in the new Act (FEPCA) took effect the date of enactment (October 21, 1972) unless otherwise provided for in the Act. If new regulations are necessary to implement any provision which is to become immediately effective, such regulations are to be written and effective within 90 days of enactment.

The provisions and regulations of FIFRA remain in effect until superseded by FEPCA except that all amendments and provisions made by the new Act are to be effective within four years.

Immediate (As of October 21, 1972)

Some of the more important new provisions that became effective upon enactment follow:

Penalties may be imposed not only upon the producer, but also upon the user who uses a pesticide in a manner "inconsistent with its instructions on the label".

Indemnities may be paid under certain conditions to persons who suffer a financial loss due to suspension or final cancellation of registration of a pesticide which they are holding.

Provisions are made for stop-sale or seizure if a pesticide is found to be in violation of any of provisions of this Act.

Within 90 Days (Up to January 19, 1973)

Regulations are to be written for permanent procedures for the exemption of Federal agencies from provisions of the Act.

Effective regulations are to be written for procedures in storage and disposal of pesticides, including pickup and disposal of cancelled pesticides by EPA.

SB106
APRIL 13, 1973
7 of 7 PGS.
EXHIBIT 7

OREGON STATE ARCHIVES

Within One Year (Up to October 21, 1973)

Standards for certification of pesticide applicators set by EPA. H. AG. & NAT. RES. COM.

Regulations for:

Registration of establishments

Permits for experimental use

Keeping of books and records as required under the Act (not users)

Within Two Years (Up to October 21, 1974)

Regulations for registration and classification of all pesticides into two categories -- general and restricted. After two years new pesticides will be registered within this classification.

After two years, but within four years, all older pesticides must be reregistered and reclassified.

Within Three Years (Up to October 21, 1975)

State plans for certification to be submitted to EPA for approval. EPA must accept or reject as promptly as possible, but within one year.

Within Four Years (Up to October 21, 1976)

Applicators of restricted pesticides must be certified.

All registered pesticides must be classified into general use and restricted categories.

FEPCA will be fully in force.

CENTRAL OFFICE
588-5342
AREA CODE 503

H. AG. & NAT. RES. COM. OREGON STATE ARCHIVES
MARION COUNTY HEALTH DEPARTMENT
FOUNDED IN 1925
2455 FRANZEN STREET, N.E.
SALEM, OREGON 97301
15 March 1973.

58106 16 of 16
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EXHIBIT 8 2nd 2 Pgs.
HOME HEALTH AGENCY
588-5401
ENVIRONMENTAL HEALTH
588-5346
FAMILY PLANNING SERVICES
588-5355
COMMUNITY MENTAL HEALTH
CLINIC (494 STATE ST.)
588-5351

Testimony to be presented by Wm Hellie, RS
on Senate Bill 106

We as Public Health Officials must object to the provisions of this bill that would preclude Public Health Officials and Licensed Bonded Pest Control Companies from using this important Public Health tool.

The use of other Rodenticides are not as successful as 1080 for several reasons such as;

1. Rodents must feed for several days on other poisons before a kill is accomplished.
2. Rodents are very selective with their eating and often will not feed long enough on other poisons.
3. In areas such as (sewers and feed mills) where an abundance of food is available creates a problem of getting enough ingested to do the job.

1080(Sodium Fluoroacetate) has been successful when other poisons have Failed because a kill is obtained with the first feeding.

We recognize the dangers associated with the use of this or any other poison and we agree that its use should be restricted to Public Health Officials and Licensed Bonded Pest Control Companies.

Considering the fact that Rats cannot vomit, it is suggested that the manufacturers of 1080 be required to include in their formulation an adequate emetic that would induce nausea and vomiting in man and other animals if accidentally ingested.

John Ketchum
John Ketchum, R.S. Sanitarian

Tom Fisher
Tom Fisher, R.S. Sanitarian

Robert Foster
Robert Foster, R.S. Sanitarian

Floyd M. Ault
Floyd Ault, Sanitarian(T)

John T. Herron, M.D.
John T. Herron, M.D. Health Officer

C.S. Sherman
C.S. Sherman, R.S. Dir Env Health

William Hellie
William Hellie, RS Vector Control Specialist.

Robert B. Fatland
Robert Fatland, R.S. Supervising Sanitarian.

Dennis Allen
Dennis Allen, R.S. Sanitarian

Statement on Senate Bill 106 - Oregon
Legislative Assembly -- 1973 Regular Session

The Oregon Division of the Izaak Walton League commends the efforts of the Oregon Legislature to revise provisions relating to the registration, control and use of pesticides in Oregon, and respectfully submits the following league policy on pesticides, their use and control:

The Izaak Walton League realizes that while it is necessary to control organisms which compete with man for food and other renewable resources, it is essential that such controls be directed toward specific targets, whether insects, fungus, weeds, or rodents.

a. PERSISTENT PESTICIDES: All chlorinated hydrocarbons should be outlawed.

b. BROAD SPECTRUM CHEMICALS: All chemical controls which may destroy or damage unintended target organisms should be replaced by more specific materials.

c. BIOLOGICAL CONTROL: Full support should be given to pesticide control by predators, attractants, sterilization, and other means aimed specifically at target organisms with minimum reliance on chemical treatment.

d. ECOSYSTEM TESTING: All pesticides should be fully tested in actual field experiments to determine all side effects under environmental conditions.

e. SAFETY AND LIABILITY: Laws should be enacted to place responsibility for full determination of the safety in use of all pesticides on the manufacturer thereof, and liability for proper application on the users of such products.