

Senate Bill 954

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

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**.

Requires operator for forest operation that includes pesticide application by aircraft to ensure spraying does not occur within watershed supplying water for human consumption to residence or school.

Punishes violation by maximum of one year's imprisonment, \$6,250 fine, or both. Makes violation subject to civil penalty as determined by State Board of Forestry by rule.

Allows aggrieved party to bring action for enforcement and other relief.

A BILL FOR AN ACT

1
2 Relating to forest operations that include the aerial application of pesticides; creating new pro-
3 visions; and amending ORS 527.990 and 527.992.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 527.610 to**
6 **527.770.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Aerial pesticide applicator" means an individual certified under ORS 634.128.

9 (b) "Aggrieved party" means a person or unit of government that is directly exposed to
10 pesticide applied by aircraft or is an owner or occupant of a residence or school that is
11 supplied with water for human consumption by a watershed that is sprayed with pesticide
12 applied by aircraft.

13 (c) "Pesticide" and "pesticide operator" have the meanings given those terms in ORS
14 634.006.

15 (2) If an operation includes pesticide application by aircraft, the operator shall ensure
16 that pesticide application by aircraft does not occur within:

17 (a) A watershed that supplies water for human consumption to a residence or school; or

18 (b) A strip at least 60 feet in width adjacent to the boundaries of a watershed described
19 in paragraph (a) of this subsection.

20 (3) If an operator commits a violation of subsection (2) of this section, and the State
21 Forester does not issue and serve an order under ORS 527.680 directing the operator to cease
22 further violation, an aggrieved party may bring an action:

23 (a) For a court order directing the State Forester to take actions necessary to prevent
24 the operator from committing further violations of subsection (2) of this section within the
25 watershed; or

26 (b) For a court order directing the operator to cease further violation of subsection (2)
27 of this section within the watershed and for additional relief as the court deems appropriate.

28 (4) A court shall award an aggrieved party that prevails in an action under subsection
29 (3) of this section costs and reasonable attorney fees at trial or on appeal.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **(5) The responsibility of the operator under subsection (2) of this section is in addition**
2 **to any responsibility of the aerial pesticide applicator or pesticide operator under ORS**
3 **chapter 634.**

4 **SECTION 3.** ORS 527.990 is amended to read:

5 527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750
6 or 527.755 **or section 2 of this 2017 Act**, or any rule promulgated under ORS 527.710, is a Class
7 A misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall
8 be deemed to be a separate offense.

9 (2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a
10 Class C misdemeanor.

11 **SECTION 4.** ORS 527.992 is amended to read:

12 527.992. (1) In addition to any other penalty provided by law, any person who fails to comply
13 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

14 (a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750 or 527.755 **or section 2**
15 **of this 2017 Act.**

16 (b) The terms or conditions of any order of the State Forester issued in accordance with ORS
17 527.680.

18 (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS
19 527.710.

20 (d) Any term or condition of a written waiver, or prior approval granted by the State Forester
21 pursuant to the rules adopted under ORS 527.710.

22 (2) Imposition or payment of a civil penalty under this section shall not be a bar to actions al-
23 leging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover
24 an amount based on the gain resulting from individual or corporate criminal violations.

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