
HOUSE BILL 2209

State of Washington 52nd Legislature 1991 1st Special Session

By Representatives Rayburn, McLean, Kremen, Nealey, Chandler, Grant, Lisk, Edmondson, Neher, Ludwig, Hochstatter, Haugen, Bray, Bowman and Rasmussen.

Read first time June 11, 1991. Referred to Committee on Agriculture & Rural Development.

1 AN ACT Relating to pesticide recordkeeping and posting; amending
2 RCW 17.21.100, 49.70.117, and 49.70.119; adding a new chapter to Title
3 17 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 17.21.100 and 1989 c 380 s 39 are each amended to read
6 as follows:

7 (1) (~~Except as provided in subsection (7) of this section,~~)
8 Pesticide applicators licensed under the provisions of this chapter and
9 all persons applying pesticides to more than one acre of agricultural
10 land in a calendar year, including public entities engaged in roadside
11 spraying of pesticides, shall keep records (~~on a form prescribed by~~
12 ~~the director~~) regarding each application which shall include the
13 following information:

14 (a) The location of the land where the pesticide was applied.

15 (b) The year, month, day and time the pesticide was applied.

1 (c) The product name used on the registered label and the United
2 States environmental protection agency registration number, if
3 applicable, of the pesticide which was applied.

4 (d) The crop or site to which the pesticide was applied.

5 (e) The amount of pesticide applied per acre or other appropriate
6 measure.

7 (f) The concentration of pesticide that was applied.

8 (g) The number of acres, or other appropriate measure, to which the
9 pesticide was applied.

10 (h) The licensed applicator's name, address, and telephone number
11 and the name of the individual or individuals making the application.

12 (i) The direction and estimated velocity of the wind at the time
13 the pesticide was applied: PROVIDED, That this subsection (i) shall
14 not apply to applications of baits in bait stations and pesticide
15 applications within structures.

16 (j) Any other reasonable information required by the director.

17 (2)(a) Records shall be updated on the same day that a pesticide is
18 applied.

19 (b) A commercial pesticide applicator who applies a pesticide to an
20 agricultural crop or agricultural lands shall submit the information
21 for the application required under subsection (1) of this section to
22 the owner, or to the lessee if applied on behalf of the lessee, of the
23 lands to which the pesticide is applied.

24 (3) Such records shall be kept by the licensed applicator or such
25 other person or entity applying the pesticides for a period of seven
26 years from the date of the application of the pesticide to which such
27 records refer(~~(, and the director shall, upon request in writing, be~~
28 ~~furnished with a copy of such records forthwith by the licensee:~~
29 ~~PROVIDED, That the director may require the submission of such records~~
30 ~~within thirty days of the application of any restricted use pesticide~~

1 ~~in prescribed areas controlling the use of such restricted use~~
2 ~~pesticide)).~~ If the pesticide was applied by a commercial pesticide
3 applicator to the agricultural crop or agricultural lands of a person
4 who employs one or more employees, as "employee" is defined in RCW
5 49.70.020, such records shall also be kept by the employer for a period
6 of seven years from the date of the application of the pesticide to
7 which the records refer.

8 (4) The pesticide records shall be readily available to: The
9 department; the department of labor and industries; treating medical
10 personnel initiating diagnostic testing or therapy for a patient with
11 a suspected case of pesticide poisoning; the department of social and
12 health services; the pesticide incident reporting and tracking panel;
13 and, in the case of an industrial insurance claim filed under Title 51
14 RCW with the department of labor and industries, the employee or the
15 employee's designated representative and the department of labor and
16 industries. In addition, the director may require the submission of
17 such records on a routine basis within thirty days of the application
18 of any restricted use pesticide in prescribed areas controlling the use
19 of such restricted use pesticide.

20 (5) If a request for information is made under subsection (4) of
21 this section from an applicator referred to in subsection (1) of this
22 section and the applicator refuses to provide a copy of the records,
23 the department shall be notified of the request and the applicator's
24 refusal. Within seven working days, the department shall request that
25 the applicator provide the department with all pertinent copies, except
26 that in a medical emergency the request shall be made within two
27 working days. The applicator shall provide copies of the records to
28 the department within twenty-four hours after the department's request.

29 (6) The department of agriculture and the department of labor and
30 industries shall jointly adopt, by rule, ~~((one form that satisfies))~~

1 forms that satisfy the information requirements of this section ((and
2 RCW 49.70.119. Records kept on the prescribed form under RCW 49.70.119
3 may be used to comply with this section.

4 ~~(7) This section shall not apply to the owner or operator of a~~
5 ~~dairy farm with respect to his or her application of pesticides to the~~
6 ~~farm)).~~

7 (7)(a) Except as provided in (b) of this subsection, information
8 supplied to a person or entity under this section or under RCW
9 49.70.119 or made available for inspection or other access upon request
10 under this section or RCW 49.70.119 shall be supplied or made available
11 on a form adopted by the department under this section.

12 (b) Information submitted by a commercial pesticide applicator to
13 the owner or lessee of agricultural lands under subsection (2)(b) of
14 this section need not be submitted on a form adopted by the department.
15 However, if the information is not submitted on such a form, it must be
16 readily understandable to a reasonable person.

17 **Sec. 2.** RCW 49.70.117 and 1989 c 380 s 76 are each amended to read
18 as follows:

19 (1) If a pesticide having a reentry interval of greater than
20 twenty-four hours is applied to a labor-intensive agricultural crop,
21 the pesticide-treated area shall be posted with warning signs in
22 accordance with the requirements of this section.

23 (2) When pesticide warning signs are required under this section,
24 the employer shall post signs visible from all usual points of entry to
25 the pesticide-treated area. If there are no usual points of entry or
26 the area is adjacent to an unfenced public right of way, signs shall be
27 posted (a) at each corner of the pesticide-treated area, and (b) at
28 intervals not exceeding six hundred feet, or (c) at other locations
29 approved by the department that provide maximum visibility.

1 (3) The signs shall be posted (~~(no sooner than)~~) within twenty-four
2 hours before the scheduled application of the pesticide, remain posted
3 during application and throughout the applicable reentry interval, and
4 be removed within two days after the expiration of the applicable
5 reentry interval and before employee reentry is permitted. Employees
6 working in an area scheduled for a pesticide application shall be
7 informed of the application and shall vacate the area scheduled to be
8 sprayed prior to application of the pesticide.

9 (4) Signs shall be legible for the duration of use. Signs shall
10 contain a prominent symbol approved by the department of agriculture
11 and the department of labor and industries by rule, and wording shall
12 be in English and Spanish or other languages as required by the
13 department. Signs shall meet the minimum specifications of rules
14 adopted by the department, which rules shall include, at a minimum,
15 size and lettering requirements.

16 **Sec. 3.** RCW 49.70.119 and 1989 c 380 s 77 are each amended to read
17 as follows:

18 (1) An employer who applies (~~(or stores)~~) pesticides in connection
19 with the production of an agricultural crop, or who causes pesticides
20 to be applied in connection with such production, shall (~~compile and~~
21 ~~maintain a workplace pesticide list by crop for each pesticide that is~~
22 ~~applied to a crop or stored in a work area. The workplace pesticide~~
23 ~~list shall be kept on a form prescribed by the department and shall~~
24 ~~contain at least the following information:~~

25 ~~(a) The location of the land where the pesticide was applied or~~
26 ~~site where the pesticide was stored;~~

27 ~~(b) The year, month, day, and time the pesticide was applied;~~

1 ~~(c) The product name used on the registered label and the United~~
2 ~~States environmental protection agency registration number, if~~
3 ~~applicable, of the pesticide that was applied or stored;~~

4 ~~(d) The crop or site to which the pesticide was applied;~~

5 ~~(e) The amount of pesticide applied per acre, or other appropriate~~
6 ~~measure;~~

7 ~~(f) The concentration of pesticide that was applied;~~

8 ~~(g) The number of acres, or other appropriate measure, to which~~
9 ~~pesticide was applied;~~

10 ~~(h) If applicable, the licensed applicator's name, address, and~~
11 ~~telephone number and the name of the individual or individuals making~~
12 ~~the application; and~~

13 ~~(i) The direction and estimated velocity of the wind at the time~~
14 ~~the pesticide was applied: PROVIDED, That this subsection (i) shall~~
15 ~~not apply to applications of baits in bait stations and pesticide~~
16 ~~applications within structures.~~

17 ~~(2) The employer shall update the workplace pesticide list on the~~
18 ~~same day that a pesticide is applied or is first stored in a work area.~~

19 ~~(3) The workplace pesticide list may be prepared for the workplace~~
20 ~~as a whole or for each work area and must)) keep records regarding~~
21 ~~each application which shall include the information required under RCW~~
22 ~~17.21.100. This information shall be readily available to the~~
23 ~~employer's employees and their designated representatives. New or~~
24 ~~newly assigned employees shall be made aware of the ((pesticide~~
25 ~~chemical list before working with pesticides or in a work area~~
26 ~~containing pesticides)) availability of the information.~~

27 ~~((4) An employer subject to this section shall maintain one form~~
28 ~~for each crop, work area, or workplace as a whole, as appropriate, and~~
29 ~~shall add information to the form as different pesticides are applied~~
30 ~~or stored. The forms shall be accessible and available for copying~~

1 ~~and~~) The information shall be stored in a location suitable to
2 preserve ~~((their))~~ its physical integrity. The employer shall maintain
3 and preserve the ~~((forms))~~ information required under this section for
4 no less than seven years. ~~((The records shall include an estimation of
5 the total amount of each pesticide listed on the forms.~~

6 ~~(5))~~ After July 23, 1989, if an employer has failed to maintain
7 and preserve the ~~((forms))~~ information as required, the employer shall
8 be subject to any applicable penalties authorized under this chapter or
9 chapter 49.17 RCW.

10 ~~((6))~~ If activities for which ~~((forms are))~~ the information is
11 maintained cease ~~((at a workplace))~~ on a farm, the ~~((forms))~~
12 information shall be filed with the department. If an employer subject
13 to this section is succeeded or replaced in that function by another
14 person, the person who succeeds or replaces the employer shall retain
15 the ~~((forms))~~ information as required by this section but is not liable
16 for violations committed by the former employer under this chapter or
17 rules adopted under this chapter, including violations relating to the
18 retention and preservation of ~~((forms))~~ information.

19 ~~((7))~~ (2) In addition to providing information under subsection
20 (1) of this section, the employer shall provide ~~((copies of the forms))~~
21 the information required under RCW 17.21.100 regarding the application
22 of a pesticide, on request, to an employee or the employee's designated
23 representative in the case of an industrial insurance claim filed under
24 Title 51 RCW with the department of labor and industries, treating
25 medical personnel, the pesticide incident reporting and tracking review
26 panel, or department representative. The designated representative or
27 treating medical personnel are not required to identify the employee
28 represented or treated. The department shall keep the name of any
29 affected employee confidential in accordance with RCW 49.17.080(1). If
30 an employee, a designated representative, treating medical personnel,

1 or the pesticide incident reporting and tracking review panel requests
2 ((a copy of a form)) such information and the employer refuses to
3 provide ((a copy)) the information, the requester shall notify the
4 department of the request and the employer's refusal. Within seven
5 working days, the department shall request that the employer provide
6 the department with all pertinent ((copies)) information, except that
7 in a medical emergency the request shall be made within two working
8 days. The employer shall provide ((copies of the form)) the
9 information to the department within twenty-four hours after the
10 department's request.

11 ~~((8) The department of labor and industries and the department of
12 agriculture shall jointly adopt, by rule, one form that satisfies the
13 information requirements of this section and RCW 17.21.100. Records
14 kept by the employer on the prescribed form under RCW 17.21.100 may be
15 used to comply with the workplace pesticide list information
16 requirements under this section.))~~

17 (3) Information provided to any person or entity under this section
18 or made available for inspection or other access upon request under
19 this section shall be provided or made available on a form adopted by
20 the department of agriculture and the department of labor and
21 industries under RCW 17.21.100.

22 NEW SECTION. Sec. 4. For the purposes of this chapter:

23 (1) "Applicator" means any individual who is licensed as a
24 commercial pesticide applicator, commercial pesticide operator, public
25 operator, private-commercial applicator, demonstration and research
26 applicator, private applicator, or any other individual who is
27 certified by the Washington state department of agriculture to use or
28 supervise the use of any pesticide which is classified by the
29 environmental protection agency as a restricted-use pesticide.

1 (2) "Residential property" includes property less than one acre in
2 size zoned as residential by a city, town, or county.

3 (3) "Pesticide" has the meaning given in RCW 17.21.020.

4 NEW SECTION. **Sec. 5.** (1) When a pesticide is applied by an
5 applicator to public or private school grounds, day care centers,
6 public parks, public playgrounds, or residential property, the
7 pesticide-treated area must be posted with signs provided by the
8 applicator.

9 (2) Signs shall be posted at the time of the application and for at
10 least the following twenty-four hours. For applications of pesticides
11 which have a reentry interval established by the environmental
12 protection agency, the applicator shall comply with the label
13 requirements. The owner or occupant of the property receiving the
14 application is responsible for removal of the signs after the posting
15 period or applicable reentry interval.

16 (3) Signs shall include the name and telephone number of the
17 applicator of the pesticide.

18 (4) The director of the department of agriculture shall adopt rules
19 establishing the size and lettering requirements of signs and any other
20 necessary requirements.

21 NEW SECTION. **Sec. 6.** The director of the department of
22 agriculture shall administer and enforce the pesticide posting
23 provisions of this chapter and all rules adopted by the department of
24 agriculture under this chapter. All rules to be adopted under this
25 chapter shall be made in accordance with the provisions of chapter
26 34.05 RCW.

1 NEW SECTION. **Sec. 7.** State and local health departments, and
2 mosquito control districts when conducting mosquito control operations,
3 are exempt from the posting applications of this chapter.

4 NEW SECTION. **Sec. 8.** Where it is not practical to post spray
5 applications governed by this chapter, as in the case of roadside
6 spraying, the director of the department of agriculture shall determine
7 by rule what types of applications do not require posting. In lieu of
8 posting under the provisions of this chapter, such applicators shall be
9 required to display the name and telephone number of the applicator or
10 applicator's employer, and the pesticide being sprayed on the vehicle
11 used to make the application. The applicator shall also be required to
12 carry the material safety data sheet for the pesticide being applied in
13 the vehicle making the application.

14 NEW SECTION. **Sec. 9.** If an applicator receives a written
15 request for information on a spray application governed by this
16 chapter, the applicator shall provide the requestor with the name of
17 the pesticide applied and a copy of the material safety data sheet for
18 the pesticide.

19 NEW SECTION. **Sec. 10.** Sections 4 through 9 of this act shall
20 constitute a new chapter in Title 17 RCW.

21 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and shall take
24 effect immediately.