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HOUSE BILL 2357

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By Representatives Heavey, Ludwig, R. Johnson, Rayburn, Franklin, Grant, Kremen, Fuhrman and Bray

Read first time 01/15/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to pesticide recordkeeping and posting, including  
2 requirements for worker safety; amending RCW 17.21.100, 49.70.117, and  
3 49.70.119; and declaring an emergency.

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

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

7 (1) Until January 1, 1995:

8 (a) Pesticide applicators licensed under the provisions of this  
9 chapter and all persons applying pesticides to more than one acre of  
10 agricultural land in a calendar year, including public entities engaged  
11 in roadside spraying of pesticides, shall keep records for each  
12 application which shall include the following information:

13 (i) The location of the land where the pesticide was applied;

14 (ii) The year, month, day, and time the pesticide was applied;

1       (iii) 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;

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

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

7       (vi) The concentration of pesticide that was applied;

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

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

13       (ix) The direction and estimated velocity of the wind at the time  
14 the pesticide was applied, except that this subsection (1)(a)(ix) does  
15 not apply to applications of baits in bait stations and pesticide  
16 applications within structures; and

17       (x) Any other reasonable information required by the director.

18       (b)(i) The records shall be kept in a format readily understandable  
19 to a reasonable person who does not have expertise in pesticide  
20 application. The records shall be updated on the same day that a  
21 pesticide is applied.

22       (ii) A commercial pesticide applicator who applies a pesticide to  
23 an agricultural crop or agricultural lands shall provide a copy of the  
24 records required under subsection (1)(a) of this section for the  
25 application to the owner, or to the lessee if applied on behalf of the  
26 lessee, of the lands to which the pesticide is applied. Records  
27 provided by a commercial pesticide applicator to the owner or lessee of  
28 agricultural lands under this subsection need not be provided on a form  
29 adopted by the department. However, if the records are not provided on

1 such a form, the records must be readily understandable to a reasonable  
2 person who does not have expertise in pesticide application.

3 (c) The records required under this section shall be maintained and  
4 preserved by the licensed applicator or other person or entity applying  
5 the pesticides for no less than seven years from the date of the  
6 application of the pesticide to which the records refer. If the  
7 pesticide was applied by a commercial pesticide applicator to the  
8 agricultural crop or agricultural lands of a person who employs one or  
9 more employees, as "employee" is defined in RCW 49.70.020, the records  
10 shall also be kept by the employer for a period of seven years from the  
11 date of the application of the pesticide to which the records refer.

12 (d)(i) The pesticide records shall be readily accessible to the  
13 department for inspection. Copies of the records shall be provided on  
14 request to: The department; the department of labor and industries;  
15 treating medical personnel initiating diagnostic testing or therapy for  
16 a patient with a suspected case of pesticide poisoning; the department  
17 of social and health services; the pesticide incident reporting and  
18 tracking review panel; and, in the case of an industrial insurance  
19 claim filed under Title 51 RCW with the department of labor and  
20 industries, the employee or the employee's designated representative.  
21 In addition, the director may require the submission of the records on  
22 a routine basis within thirty days of the application of a restricted  
23 use pesticide in prescribed areas controlling the use of the restricted  
24 use pesticide. When a request for records is made under this  
25 subsection by treating medical personnel and the record is required for  
26 determining treatment, copies of the record shall be provided  
27 immediately. For all other requests, copies of the record shall be  
28 provided within seventy-two hours.

29 (ii) Copies of records provided to a person or entity under this  
30 subsection (1)(d) shall, if so requested, be provided on a form adopted

1 under subsection (1)(f) of this section. Information for treating  
2 medical personnel shall be made available by telephone, if requested.

3 (e) If a request for a copy of a record is made under this section  
4 and the applicator refuses to provide a copy, the requester may notify  
5 the department of the request and the applicator's refusal. Within  
6 seven working days, the department shall request that the applicator  
7 provide the department with all pertinent copies, except that in a  
8 medical emergency the request shall be made within two working days.  
9 The applicator shall provide copies of the records to the department  
10 within twenty-four hours after the department's request.

11 (f) The department of agriculture and the department of labor and  
12 industries shall jointly adopt, by rule, forms that satisfy the  
13 information requirements of this section.

14 (2) On and after January 1, 1995:

15 (a) Except as provided in subsection ~~((+7))~~ (2)(g) of this  
16 section, pesticide applicators licensed under the provisions of this  
17 chapter and all persons applying pesticides to more than one acre of  
18 agricultural land in a calendar year, including public entities engaged  
19 in roadside spraying of pesticides, shall keep records on a form  
20 prescribed by the director which shall include the following:

21 ~~((+a))~~ (i) The location of the land where the pesticide was  
22 applied.

23 ~~((+b))~~ (ii) The year, month, day and time the pesticide was  
24 applied.

25 ~~((+c))~~ (iii) The product name used on the registered label and the  
26 United States environmental protection agency registration number, if  
27 applicable, of the pesticide which was applied.

28 ~~((+d))~~ (iv) The crop or site to which the pesticide was applied.

29 ~~((+e))~~ (v) The amount of pesticide applied per acre or other  
30 appropriate measure.

1       (~~(f)~~) (vi) The concentration of pesticide that was applied.

2       (~~(g)~~) (vii) The number of acres, or other appropriate measure, to  
3 which the pesticide was applied.

4       (~~(h)~~) (viii) The licensed applicator's name, address, and  
5 telephone number and the name of the individual or individuals making  
6 the application.

7       (~~(i)~~) (ix) The direction and estimated velocity of the wind at  
8 the time the pesticide was applied: PROVIDED, That this subsection  
9 (~~(i)~~) (2)(a)(ix) shall not apply to applications of baits in bait  
10 stations and pesticide applications within structures.

11       (~~(j)~~) (x) Any other reasonable information required by the  
12 director.

13       (~~(2)~~) (b) Records shall be updated on the same day that a  
14 pesticide is applied.

15       (~~(3)~~) (c) Such records shall be kept for a period of seven years  
16 from the date of the application of the pesticide to which such records  
17 refer, and the director shall, upon request in writing, be furnished  
18 with a copy of such records forthwith by the licensee: PROVIDED, That  
19 the director may require the submission of such records within thirty  
20 days of the application of any restricted use pesticide in prescribed  
21 areas controlling the use of such restricted use pesticide.

22       (~~(4)~~) (d) The pesticide records shall be readily available to:  
23 The department; treating medical personnel initiating diagnostic  
24 testing or therapy for a patient with a suspected case of pesticide  
25 poisoning; the department of social and health services; the pesticide  
26 incident reporting and tracking panel; and, in the case of an  
27 industrial insurance claim filed under Title 51 RCW with the department  
28 of labor and industries, the employee or the employee's designated  
29 representative and the department of labor and industries.

1       (~~(5)~~) (e) If a request for information is made under subsection  
2 (~~(4)~~) (2)(d) of this section from an applicator referred to in  
3 subsection (~~(1)~~) (2)(a) of this section and the applicator refuses to  
4 provide a copy of the records, the department shall be notified of the  
5 request and the applicator's refusal. Within seven working days, the  
6 department shall request that the applicator provide the department  
7 with all pertinent copies, except that in a medical emergency the  
8 request shall be made within two working days. The applicator shall  
9 provide copies of the records to the department within twenty-four  
10 hours after the department's request.

11       (~~(6)~~) (f) The department of agriculture and the department of  
12 labor and industries shall jointly adopt, by rule, one form that  
13 satisfies the information requirements of this section and RCW  
14 49.70.119. Records kept on the prescribed form under RCW 49.70.119 may  
15 be used to comply with this section.

16       (~~(7)~~) (g) This section shall not apply to the owner or operator  
17 of a dairy farm with respect to his or her application of pesticides to  
18 the farm.

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

21       (1) Until January 1, 1995:

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

26       (b) When pesticide warning signs are required under this section,  
27 the employer shall post signs visible from all usual points of entry to  
28 the pesticide-treated area. If there are no usual points of entry or  
29 the area is adjacent to an unfenced public right of way, signs shall be

1 posted (i) at each corner of the pesticide-treated area, and (ii) at  
2 intervals not exceeding six hundred feet, or (iii) at other locations  
3 approved by the department that provide maximum visibility.

4 (c) The signs shall be posted within twenty-four hours before the  
5 scheduled application of the pesticide, remain posted during  
6 application and throughout the applicable reentry interval, and be  
7 removed within two days after the expiration of the applicable reentry  
8 interval and before employee reentry is permitted. Employees working  
9 in an area scheduled for a pesticide application shall be informed of  
10 the application and shall vacate the area scheduled to be treated prior  
11 to application of the pesticide.

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

19 (2) On and after January 1, 1995:

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

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

1 ((+e)) (iii) at other locations approved by the department that  
2 provide maximum visibility.

3 ((+3)) (c) The signs shall be posted no sooner than twenty-four  
4 hours before the scheduled application of the pesticide, remain posted  
5 during application and throughout the applicable reentry interval, and  
6 be removed within two days after the expiration of the applicable  
7 reentry interval and before employee reentry is permitted.

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

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

17 (1) Until January 1, 1995:

18 (a) An employer who applies pesticides in connection with the  
19 production of an agricultural crop, or who causes pesticides to be  
20 applied in connection with such production, shall keep records of each  
21 application, which shall include the following information:

22 (i) The location of the land where the pesticide was applied or  
23 site where the pesticide was stored;

24 (ii) The year, month, day, and time the pesticide was applied;

25 (iii) The product name used on the registered label and the United  
26 States environmental protection agency registration number, if  
27 applicable, of the pesticide that was applied or stored;

28 (iv) The crop or site to which the pesticide was applied;

1       (v) The amount of pesticide applied per acre or other appropriate  
2 measure;

3       (vi) The concentration of pesticide that was applied;

4       (vii) The number of acres, or other appropriate measure, to which  
5 pesticide was applied;

6       (viii) If applicable, the licensed applicator's name, address, and  
7 telephone number and the name of the individual or individuals making  
8 the application;

9       (ix) The direction and estimated velocity of the wind at the time  
10 the pesticide was applied, except that this subsection (1)(a)(ix) does  
11 not apply to applications of baits in bait stations and pesticide  
12 applications within structures; and

13       (x) Any other reasonable information required by the director.

14       (b) The pesticide application records shall be kept in a format  
15 readily understandable to a reasonable person who does not have  
16 expertise in pesticide application. The records shall be updated on  
17 the same day that a pesticide is applied. If the employer has been  
18 provided a copy of a pesticide application record under RCW  
19 17.21.100(1)(b)(ii), the copy may be used as the record of the  
20 pesticide application required under this section. The employer shall  
21 maintain and preserve the pesticide application records for no less  
22 than seven years from the date of the application of the pesticide to  
23 which the records refer.

24       (c) The pesticide application records shall be readily accessible  
25 for review to the employer's employees and their designated  
26 representatives in a central location beginning on the day the  
27 application is made and for at least two weeks following the  
28 application. New or newly assigned employees shall be made aware of  
29 the accessibility of the application records before working with  
30 pesticides or in a work area containing pesticides.

1       (d)(i) An employer subject to this section who stores pesticides  
2 shall at least once in each calendar year perform an inventory of the  
3 pesticides stored in any work area. The pesticide inventory records  
4 shall include the following information:

5       (A) The location of the site where the pesticide is stored;

6       (B) The year, month, day, and time the pesticide was first stored;

7       (C) The product name used on the registered label and the United  
8 States environmental protection agency registration number, if  
9 applicable, of the pesticide that is stored;

10       (D) The amount of pesticide in storage at the time of the  
11 inventory; and

12       (E) A record of nonusable pesticides and the planned method for  
13 disposing of the nonusable pesticides.

14 The inventory records shall be maintained and preserved for no less  
15 than seven years.

16       (ii) In addition to performing the annual pesticide inventory  
17 required under this subsection, an employer shall maintain a record of  
18 pesticide purchases made between the annual inventory dates. In lieu  
19 of this purchase record, an employer may obtain from distributors from  
20 whom pesticides are purchased a statement obligating the distributor to  
21 maintain the purchase records on behalf of the employer and in  
22 satisfaction of the employer's obligations under this subsection. The  
23 director may require the submission of all purchase records from  
24 employers or distributors, covering the purchases during a specified  
25 period of time or in a specified geographical area.

26       (e) If activities for which the records are maintained cease, the  
27 records shall be filed with the department. If an employer subject to  
28 this section is succeeded or replaced in that function by another  
29 person, the person who succeeds or replaces the employer shall retain  
30 the records as required by this section but is not liable for

1 violations committed by the former employer under this chapter or rules  
2 adopted under this chapter, including violations relating to the  
3 retention and preservation of records.

4 (f)(i) The records required under this section shall be readily  
5 accessible to the department for inspection. Copies of the records  
6 shall be provided, on request, to: An employee or the employee's  
7 designated representative in the case of an industrial insurance claim  
8 filed under Title 51 RCW with the department of labor and industries;  
9 treating medical personnel; the pesticide incident reporting and  
10 tracking review panel; or a department representative. The designated  
11 representative or treating medical personnel are not required to  
12 identify the employee represented or treated. The department shall  
13 keep the name of any affected employee confidential in accordance with  
14 RCW 49.17.080(1). When a request for records is made under this  
15 subsection by treating medical personnel and the record is required for  
16 determining treatment, copies of the record shall be provided  
17 immediately. For all other requests, copies of the records shall be  
18 provided within seventy-two hours.

19 (ii) Copies of records provided to any person or entity under this  
20 subsection (1)(f) shall, if so requested, be provided or made available  
21 on a form adopted under subsection (1)(i) of this section. Information  
22 for treating medical personnel shall be made available by telephone, if  
23 requested.

24 (g) If a request for a copy of a record is made under this section  
25 and the employer refuses to provide a copy, the requester may notify  
26 the department of the request and the employer's refusal. Within seven  
27 working days, the department shall request that the employer provide  
28 the department with all pertinent records, except that in a medical  
29 emergency the request shall be made within two working days. The

1 employer shall provide the records to the department within twenty-four  
2 hours after the department's request.

3 (h) If an employer has failed to maintain and preserve the records  
4 or provide access to or copies of the records as required under this  
5 section, the employer shall be subject to any applicable penalties  
6 authorized under RCW 49.70.180.

7 (i) The department of labor and industries and the department of  
8 agriculture shall jointly adopt, by rule, forms that satisfy the  
9 information requirements of this section and RCW 17.21.100.

10 (2) On and after January 1, 1995:

11 (a) An employer who applies or stores pesticides in connection with  
12 the production of an agricultural crop shall compile and maintain a  
13 workplace pesticide list by crop for each pesticide that is applied to  
14 a crop or stored in a work area. The workplace pesticide list shall be  
15 kept on a form prescribed by the department and shall contain at least  
16 the following information:

17 ((a)) (i) The location of the land where the pesticide was  
18 applied or site where the pesticide was stored;

19 ((b)) (ii) The year, month, day, and time the pesticide was  
20 applied;

21 ((c)) (iii) The product name used on the registered label and the  
22 United States environmental protection agency registration number, if  
23 applicable, of the pesticide that was applied or stored;

24 ((d)) (iv) The crop or site to which the pesticide was applied;

25 ((e)) (v) The amount of pesticide applied per acre, or other  
26 appropriate measure;

27 ((f)) (vi) The concentration of pesticide that was applied;

28 ((g)) (vii) The number of acres, or other appropriate measure, to  
29 which pesticide was applied;

1       (~~(h)~~) (viii) If applicable, the licensed applicator's name,  
2 address, and telephone number and the name of the individual or  
3 individuals making the application; and

4       (~~(i)~~) (ix) The direction and estimated velocity of the wind at  
5 the time the pesticide was applied: PROVIDED, That this subsection  
6 (~~(i)~~) (2)(a)(ix) shall not apply to applications of baits in bait  
7 stations and pesticide applications within structures.

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

11       (~~(3)~~) (c) The workplace pesticide list may be prepared for the  
12 workplace as a whole or for each work area and must be readily  
13 available to employees and their designated representatives. New or  
14 newly assigned employees shall be made aware of the pesticide chemical  
15 list before working with pesticides or in a work area containing  
16 pesticides.

17       (~~(4)~~) (d) An employer subject to this section shall maintain one  
18 form for each crop, work area, or workplace as a whole, as appropriate,  
19 and shall add information to the form as different pesticides are  
20 applied or stored. The forms shall be accessible and available for  
21 copying and shall be stored in a location suitable to preserve their  
22 physical integrity. The employer shall maintain and preserve the forms  
23 required under this section for no less than seven years. The records  
24 shall include an estimation of the total amount of each pesticide  
25 listed on the forms.

26       (~~(5)~~) (e) After July 23, 1989, if an employer has failed to  
27 maintain and preserve the forms as required, the employer shall be  
28 subject to any applicable penalties authorized under this chapter or  
29 chapter 49.17 RCW.

1       (~~(6)~~) (f) If activities for which forms are maintained cease at  
2 a workplace, the forms shall be filed with the department. If an  
3 employer subject to this section is succeeded or replaced in that  
4 function by another person, the person who succeeds or replaces the  
5 employer shall retain the forms as required by this section but is not  
6 liable for violations committed by the former employer under this  
7 chapter or rules adopted under this chapter, including violations  
8 relating to the retention and preservation of forms.

9       (~~(7)~~) (g) The employer shall provide copies of the forms, on  
10 request, to an employee or the employee's designated representative in  
11 the case of an industrial insurance claim filed under Title 51 RCW with  
12 the department of labor and industries, treating medical personnel, the  
13 pesticide incident reporting and tracking review panel, or department  
14 representative. The designated representative or treating medical  
15 personnel are not required to identify the employee represented or  
16 treated. The department shall keep the name of any affected employee  
17 confidential in accordance with RCW 49.17.080(1). If an employee, a  
18 designated representative, treating medical personnel, or the pesticide  
19 incident reporting and tracking review panel requests a copy of a form  
20 and the employer refuses to provide a copy, the requester shall notify  
21 the department of the request and the employer's refusal. Within seven  
22 working days, the department shall request that the employer provide  
23 the department with all pertinent copies, except that in a medical  
24 emergency the request shall be made within two working days. The  
25 employer shall provide copies of the form to the department within  
26 twenty-four hours after the department's request.

27       (~~(8)~~) (h) The department of labor and industries and the  
28 department of agriculture shall jointly adopt, by rule, one form that  
29 satisfies the information requirements of this section and RCW  
30 17.21.100. Records kept by the employer on the prescribed form under

1 RCW 17.21.100 may be used to comply with the workplace pesticide list  
2 information requirements under this section.

3 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately.