

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2831

52nd Legislature
1992 Regular Session

Passed by the House March 7, 1992
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate February 28, 1992
Yeas 39 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2831 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2831

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Rayburn, Edmondson, Kremen, Prentice, Inslee, Roland, Nealey, Ludwig, Bray, Grant, Franklin, McLean, Rasmussen and Haugen)

Read first time 02/03/92.

1 AN ACT Relating to pesticides, with respect to pesticide
2 recordkeeping and posting, and reporting of pesticide cases; amending
3 RCW 17.21.100, 49.70.117, 49.70.119, and 70.104.055; prescribing
4 penalties; providing an effective date; and declaring an emergency.

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

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

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

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

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

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

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

7 (e) The amount of pesticide applied per acre or other appropriate
8 measure.

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

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

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

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

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

19 (2)(a) The records shall be updated on the same day that a
20 pesticide is applied.

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

29 (3) ((Such)) The records required under this section shall be
30 ((kept for a period of)) maintained and preserved by the licensed

1 applicator or such other person or entity applying the pesticides for
2 no less than seven years from the date of the application of the
3 pesticide to which such records refer(, and the director shall, upon
4 request in writing, be furnished with a copy of such records forthwith
5 by the licensee: PROVIDED, That the director may require the
6 submission of such records within thirty days of the application of any
7 restricted use pesticide in prescribed areas controlling the use of
8 such restricted use pesticide)). If the pesticide was applied by a
9 commercial pesticide applicator to the agricultural crop or
10 agricultural lands of a person who employs one or more employees, as
11 "employee" is defined in RCW 49.70.020, the records shall also be kept
12 by the employer for a period of seven years from the date of the
13 application of the pesticide to which the records refer.

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

1 immediately. For all other requests, copies of the record shall be
2 provided within seventy-two hours.

3 (b) Copies of records provided to a person or entity under this
4 subsection (4) shall, if so requested, be provided on a form adopted
5 under subsection (7) of this section. Information for treating health
6 care personnel shall be made immediately available by telephone, if
7 requested, with a copy of the records provided within twenty-four
8 hours.

9 (5) If a request for ~~((information))~~ a copy of the record is made
10 under ~~((subsection (4) of))~~ this section from an applicator referred to
11 in subsection (1) of this section and the applicator refuses to provide
12 a copy ~~((of the records, the department shall be notified))~~, the
13 requester may notify the department of the request and the applicator's
14 refusal. Within seven working days, the department shall request that
15 the applicator provide the department with all pertinent copies of the
16 records, except that in a medical emergency the request shall be made
17 within two working days. The applicator shall provide copies of the
18 records to the department within twenty-four hours after the
19 department's request.

20 (6) The department shall include inspection of the records required
21 under this section as part of any on-site inspection conducted under
22 this chapter on agricultural lands. The inspection shall determine
23 whether the records are readily transferable to a form adopted by the
24 department and are readily accessible to employees. However, no person
25 subject to a department inspection may be inspected under this
26 subsection (6) more than once in any calendar year, unless a previous
27 inspection has found recordkeeping violations. If recordkeeping
28 violations are found, the department may conduct reasonable multiple
29 inspections, pursuant to rules adopted by the department. Nothing in
30 this subsection (6) limits the department's inspection of records

1 pertaining to pesticide-related injuries, illnesses, fatalities,
2 accidents, or complaints.

3 (7) The department of agriculture and the department of labor and
4 industries shall jointly adopt, by rule, ~~((one))~~ forms that
5 ~~((satisfies))~~ satisfy the information requirements of this section
6 ~~((and RCW 49.70.119. Records kept on the prescribed form under RCW~~
7 ~~49.70.119 may be used to comply with this section.~~

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

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

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

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

24 (3) The signs shall be posted ~~((no sooner than))~~ within twenty-four
25 hours before the scheduled application of the pesticide, remain posted
26 during application and throughout the applicable reentry interval, and
27 be removed within two days after the expiration of the applicable
28 reentry interval and before employee reentry is permitted. Employees
29 working in an area scheduled for a pesticide application shall be

1 informed of the application and shall vacate the area to be sprayed
2 prior to application of the pesticide.

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

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

12 (1) An employer who applies (~~or stores~~) pesticides in connection
13 with the production of an agricultural crop, or who causes pesticides
14 to be applied in connection with such production, shall (~~compile and~~
15 ~~maintain a workplace pesticide list by crop for each pesticide that is~~
16 ~~applied to a crop or stored in a work area. The workplace pesticide~~
17 ~~list shall be kept on a form prescribed by the department and shall~~
18 ~~contain at least~~) keep records for each application, which shall
19 include the following information:

20 (a) The location of the land where the pesticide was applied or
21 site where the pesticide was stored;

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

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

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

27 (e) The amount of pesticide applied per acre, or other appropriate
28 measure;

29 (f) The concentration of pesticide that was applied;

1 (g) The number of acres, or other appropriate measure, to which
2 pesticide was applied;

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

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

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

11 (2) ~~The ((employer shall update the workplace pesticide list))~~
12 records shall be updated on the same day that a pesticide is applied
13 ((or is first stored in a work area)). If the employer has been
14 provided a copy of a pesticide application record under RCW
15 17.21.100(2)(b), the copy may be used as the record of the pesticide
16 application required under this section. The employer shall maintain
17 and preserve the pesticide application records for no less than seven
18 years from the date of the application of the pesticide to which the
19 records refer.

20 (3) ~~((The workplace pesticide list may be prepared for the~~
21 ~~workplace as a whole or for each work area and must be readily~~
22 ~~available to employees and their designated representatives.)) The~~
23 pesticide application records shall be readily accessible to the
24 employer's employees and their designated representatives in a central
25 location in the work place beginning on the day the application is made
26 and for at least thirty days following the application. The employee
27 or representative shall be entitled to view the pesticide application
28 records and make his or her own record from the information contained
29 in the application records. New or newly assigned employees shall be
30 made aware of the ((pesticide chemical list)) accessibility of the

1 application records before working with pesticides or in a work area
2 containing pesticides.

3 (4)(a) An employer subject to this section (~~shall maintain one~~
4 ~~form for each crop, work area, or workplace as a whole, as appropriate,~~
5 ~~and shall add information to the form as different pesticides are~~
6 ~~applied or stored. The forms shall be accessible and available for~~
7 ~~copying and shall be stored in a location suitable to preserve their~~
8 ~~physical integrity. The employer shall maintain and preserve the forms~~
9 ~~required under this section for no less than seven years. The records~~
10 ~~shall include an estimation of the total amount of each pesticide~~
11 ~~listed on the forms.)) who stores pesticides shall at least once in
12 each calendar year perform an inventory of the pesticides stored in any
13 work area. The pesticide inventory records shall include the following
14 information:~~

- 15 (i) The location of the site where the pesticide is stored;
16 (ii) The year, month, day, and time the pesticide was first stored;
17 (iii) The product name used on the registered label and the United
18 States environmental protection agency registration number, if
19 applicable, of the pesticide that is stored; and
20 (iv) The amount of pesticide in storage at the time of the
21 inventory.

22 The inventory records shall be maintained and preserved for no less
23 than seven years.

24 (b) In addition to performing the annual pesticide inventory
25 required under this subsection, an employer shall maintain a record of
26 pesticide purchases made between the annual inventory dates. In lieu
27 of this purchase record, an employer may obtain from distributors from
28 whom pesticides are purchased a statement obligating the distributor to
29 maintain the purchase records on behalf of the employer and in
30 satisfaction of the employer's obligations under this subsection. The

1 director may require the submission of all purchase records from
2 employers or distributors, covering the purchases during a specified
3 period of time or in a specified geographical area.

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

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

17 ~~((7) The employer shall provide copies of the forms))~~ (6)(a) The
18 records required under this section shall be readily accessible to the
19 department for inspection. Copies of the records shall be provided, on
20 request, to: An employee or the employee's designated representative
21 in the case of an industrial insurance claim filed under Title 51 RCW
22 with the department of labor and industries, treating ((medical))
23 health care personnel, the pesticide incident reporting and tracking
24 review panel, or department representative. The designated
25 representative or treating ((medical)) health care personnel are not
26 required to identify the employee represented or treated. The
27 department shall keep the name of any affected employee confidential in
28 accordance with RCW 49.17.080(1). ((If an employee, a designated
29 representative, treating medical personnel, or the pesticide incident
30 reporting and tracking review panel requests a copy of a form)) When a

1 request for records is made under this subsection by treating health
2 care personnel and the record is required for determining treatment,
3 copies of the record shall be provided immediately. For all other
4 requests, copies of the records shall be provided within seventy-two
5 hours.

6 (b) Copies of records provided to any person or entity under this
7 subsection (6) shall, if so requested, be provided or made available on
8 a form adopted under subsection (10) of this section. Information for
9 treating health care personnel shall be made immediately available by
10 telephone, if requested, with a copy of the records provided within
11 twenty-four hours.

12 (c) If an employer has reason to suspect that an employee is ill or
13 injured because of an exposure to one or more pesticides, the employer
14 shall immediately provide the employee a copy of the relevant pesticide
15 application records.

16 (7) If a request for a copy of a record is made under this section
17 and the employer refuses to provide a copy, the requester (~~shall~~) may
18 notify the department of the request and the employer's refusal.
19 Within seven working days, the department shall request that the
20 employer provide the department with all pertinent copies of the
21 records, except that in a medical emergency the request shall be made
22 within two working days. The employer shall provide copies of the
23 (~~form~~) records to the department within twenty-four hours after the
24 department's request.

25 (8) The department shall include inspection of the records required
26 under this section as part of any on-site inspection of a work place
27 conducted under this chapter or chapter 49.17 RCW. The inspection
28 shall determine whether the records are readily transferable to a form
29 adopted by the department, and readily accessible to employees.
30 However, no employer subject to a department inspection may be

1 inspected under this subsection (8) more than once in any calendar
2 year, unless a previous inspection has found recordkeeping violations.
3 If recordkeeping violations are found, the department may conduct
4 reasonable multiple inspections, pursuant to rules adopted by the
5 department. Nothing in this subsection (8) limits the department's
6 inspection of records pertaining to pesticide-related injuries,
7 illnesses, fatalities, accidents, or complaints.

8 (9) If an employer has failed to maintain and preserve the records
9 or provide access to or copies of the records as required under this
10 section, the employer shall be subject to penalties authorized under
11 RCW 49.17.180.

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

18 **Sec. 4.** RCW 70.104.055 and 1991 c 3 s 360 are each amended to read
19 as follows:

20 (1) Any attending physician or other health care provider
21 recognized as primarily responsible for the diagnosis and treatment of
22 a patient or, in the absence of a primary health care provider, the
23 health care provider initiating diagnostic testing or therapy for a
24 patient shall report a case or suspected case of pesticide poisoning to
25 the department of health in the manner prescribed by, and within the
26 reasonable time periods established by, rules of the state board of
27 health. Time periods established by the board shall range from
28 immediate reporting to reporting within seven days depending on the
29 severity of the case or suspected case of pesticide poisoning. The

1 reporting requirements shall be patterned after other board rules
2 establishing requirements for reporting of diseases or conditions.
3 Confidentiality requirements shall be the same as the confidentiality
4 requirements established for other reportable diseases or conditions.
5 ~~((The board rules shall determine what information shall be reported.))~~
6 The information to be reported may include information from relevant
7 pesticide application records and shall include information required
8 under board rules. Reports shall be made on forms provided to health
9 care providers by the department of health. For purposes of any oral
10 reporting, the department of health shall make available a toll-free
11 telephone number.

12 (2) Within a reasonable time period as established by board rules,
13 the department of health shall investigate the report of a case or
14 suspected case of pesticide poisoning to document the incident. The
15 department shall report the results of the investigation to the health
16 care provider submitting the original report.

17 (3) Cases or suspected cases of pesticide poisoning shall be
18 reported by the department of health to the pesticide reporting and
19 tracking review panel within the time periods established by state
20 board of health rules.

21 (4) Upon request of the primary health care provider, pesticide
22 applicators or employers shall ~~((make available to that provider any~~
23 ~~available information on))~~ provide a copy of records of pesticide
24 applications which may have affected the health of the provider's
25 patient. This information is to be used only for the purposes of
26 providing health care services to the patient.

27 (5) Any failure of the primary health care provider to make the
28 reports required under this section may be cause for the department of
29 health to submit information about such nonreporting to the applicable
30 disciplining authority for the provider under RCW 18.130.040.

1 (6) No cause of action shall arise as the result of: (a) The
2 failure to report under this section; or (b) any report submitted to
3 the department of health under this section.

4 (7) For the purposes of this section, a suspected case of pesticide
5 poisoning is a case in which the diagnosis is thought more likely than
6 not to be pesticide poisoning.

7 NEW SECTION. **Sec. 5.** (1) Sections 1 through 3 of this act are
8 necessary for the immediate preservation of the public peace, health,
9 or safety, or support of the state government and its existing public
10 institutions, and shall take effect immediately.

11 (2) Section 4 of this act shall take effect January 1, 1993.