

FINAL BILL REPORT

ESHB 2703

C 260 L 96

Synopsis as Enacted

Brief Description: Limiting department of labor and industries authority when the department of agriculture has authority to prescribe or enforce occupational safety and health standards.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Clements, Chappell, Chandler, Koster, Lisk, Thompson and Johnson).

House Committee on Agriculture & Ecology
Senate Committee on Labor, Commerce & Trade

Background: The registration and use of pesticides are regulated at the national level under the Federal Insecticide, Fungicide, and Rodenticide Act. The act is administered by the U.S. Environmental Protection Agency (EPA). Under the act, the EPA has adopted a worker protection standard. The EPA's rules state that the standard is designed to reduce the risks of illness or injury resulting from workers' and handlers' occupational exposures to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses, and forests, and also from the accidental exposure of workers and other persons to such pesticides. The rules also state that the standard requires workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies. The standard includes provisions that require the posting of warning signs regarding the application of pesticides on a farm or nursery and that prohibit workers from being in the area sprayed during the application and during any restricted entry interval associated with the application. The use of pesticides in this state is regulated under the state's Pesticide Application Act administered by the state's Department of Agriculture.

The Washington Industrial Safety and Health Act (WISHA) is administered by the Department of Labor and Industries. A safety standard for agriculture has been adopted under the act.

State legislation enacted in 1989 requires the posting of warning signs with regard to certain applications of pesticides to labor-intensive agricultural crops and requires employees to vacate the area to be sprayed.

Summary: No rule adopted under WISHA or the Pesticide Application Act may impose requirements that make it impossible to comply with the EPA's worker

protection standard for agricultural workers and handlers of agricultural pesticides. With regard to the activities governed by the EPA's worker protection standard, the Department of Labor and Industries and the Department of Agriculture must adopt by rule safety standards that are at least as effective as the EPA's standard, and the two departments' rule adoption must be coordinated.

If the EPA's standard or a related state rule is violated, joint investigations are to be conducted by the two departments, if feasible, and relevant information is to be shared. An investigation conducted by the Department of Labor and Industries solely with regard to industrial insurance is not to be considered an investigation for this purpose. The agencies may not issue duplicate citations for a violation. The two agencies must identify differences in their respective jurisdictions and penalty structures and publish those differences.

By December 1, 1996, the two departments must jointly establish a formal agreement that identifies the roles of each in conducting investigations of activities governed by the EPA's standard. The agreement must provide for protection of workers and enforcement of standards at least as effective as provided to all workers under WISHA and at least as effective as provided for other enforcement under the Pesticide Application Act. By December 1, 1996, the two departments must report to the Legislature regarding the implementation of these requirements and identify the number of multiple on-site investigations conducted and the reasons they were not coordinated.

A section of law is repealed that requires the posting of certain warning signs if a pesticide with a reentry interval of more than 24 hours is applied to a labor-intensive agricultural crop and that requires employees to vacate the area to be sprayed.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: March 29, 1996