

HOUSE BILL REPORT

HB 2831

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to pesticides, with respect to pesticide recordkeeping and posting, and reporting of pesticide cases.

Brief Description: Revising pesticide recordkeeping and posting requirements.

Sponsor(s): Representatives Heavey, Rayburn, Edmondson, Kremen, Prentice, Inslee, Roland, Nealey, Ludwig, Bray, Grant, Franklin, McLean, Rasmussen and Haugen.

Brief History:

Reported by House Committee on:
Commerce & Labor, January 30, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Chris Cordes (786-7117).

Background: Since 1961, certain pesticide applicators have been required to keep records of pesticide applications under the Pesticide Application Act. Before then, the Department of Agriculture had authority to require applicators to file statements regarding proposed pesticide applications. In 1989, the pesticide application recordkeeping requirements were amended and new recordkeeping and posting requirements were added to the Worker and Community Right to Know Act.

Requirements for pesticide application and storage records

Pesticide Application Act (PAA). Licensed pesticide applicators and all persons who apply pesticides to more than one acre of agricultural land in a calendar year (except dairy farmers) must keep records of their pesticide

applications on a form jointly adopted by the Department of Agriculture and the Department of Labor and Industries. The records must be updated each day a pesticide is applied, be kept for seven years, and be readily available to: the Department of Agriculture; the Department of Social and Health Services; the Pesticide Incident Reporting and Tracking Review Panel; treating medical personnel in a suspected case of pesticide poisoning; and, in the case of an industrial insurance claim filed with the Department of Labor and Industries, the employee or the employee's designated representative and the department.

Any person who fails to comply with the requirements of the PAA is subject to a civil penalty of up to \$7,500.

Worker and Community Right to Know Act (WCRKA). An employer who applies or stores pesticides in connection with the production of an agricultural crop must maintain a workplace pesticide list by crop for each pesticide that is applied to a crop or stored in a work area. The list must be updated on the day that a pesticide is applied or first stored. It must be accessible and available for copying, be kept for at least seven years, and be on a form jointly adopted by the Department of Agriculture and the Department of Labor and Industries. The list must be readily available to employees and their representatives. It must be provided, on request, to: the Department of Labor and Industries; the Pesticide Incident Reporting and Tracking Review Panel; treating medical personnel; or an employee or the employee's designated representative in the case of an industrial insurance claim.

Pesticide records kept under the WCRKA or PAA may be used to satisfy the recordkeeping requirements of either law.

Posting of warning signs

The WCRKA requires the posting of warning signs when labor-intensive agricultural crops are treated with certain pesticides. The signs must be posted in the area no sooner than 24 hours before the pesticide is applied. Under rules adopted by the Department of Labor and Industries, this provision is interpreted to require posting at least 24 hours before pesticide application.

Physician reporting of pesticide cases

Physicians are required to report cases or suspected cases of pesticide illness to the Department of Health. The report must include information required by Board of Health rules.

Summary of Substitute Bill:

Pesticide application records

The departments of Agriculture and Labor and Industries are authorized to adopt more than one prescribed form for pesticide application recordkeeping. Pesticide application records are no longer required to be kept on the agency prescribed form. Employers do not have to maintain their records by crop. The exemption from the recordkeeping requirements for dairy farms is deleted.

Commercial applicators must provide a copy of pesticide application records to owners or lessees of the agricultural land, and the copy must be on the agency prescribed form, if requested. The owner or lessee who has employees covered under the WCRKA must keep the record for seven years. This record may be used to satisfy the employer's recordkeeping obligations under the WCRKA.

The records must be readily accessible to the administering department for inspection. When copies of the records have been requested by authorized entities, the record must be provided on the agency prescribed form, if requested. If the record is needed for determining medical treatment, it must be provided immediately, and may be provided by telephone when requested. In other cases, the record must be provided within 72 hours. Under the PAA, the Department of Labor and Industries is authorized to request the records, without regard to whether an industrial insurance claim has been filed.

Pesticide application records must be accessible to employees and their designated representatives for viewing in a central location in the workplace beginning on the day the pesticide is applied and for at least 30 days following the application. The employee or representative is entitled to make his or her own record of the information contained in the application record. New employees must be made aware of these requirements.

If the employer has reason to suspect that an employee is ill because of a pesticide exposure, the employer must provide a copy of the records immediately to the employee.

Pesticide storage records

The requirement under the WCRKA for employers to keep storage records is deleted. Instead, employers must conduct an annual inventory each calendar year of pesticides stored in a work area. In addition, the employer must maintain a record of pesticide purchases or have the purchase records

kept by the employer's distributor. The director of the Department of Labor and Industries may require employers and distributors to submit records to the department, covering a specified period of time or geographical location.

Enforcement of recordkeeping requirements

The departments are instructed to inspect for records when conducting on-site inspections of farms. However, no person is subject to more than one record inspection per year as part of an on-site inspection. The departments' inspection authority is not limited for pesticide-related injury, illness, fatalities, accidents, or complaints. The inspection should include a determination that the records are readily transferable to the department form and accessible to employees. If an employer fails to maintain and preserve the records, the employer is subject to applicable penalties under the Washington Industrial Safety and Health Act.

Posting of warning signs

The required warning signs must be posted within 24 hours before the scheduled application of the pesticide. Employees working in an area scheduled for pesticide application must be informed of the application and must vacate the area before the pesticide is applied.

Physician reporting of pesticide cases

Beginning January 1, 1993, physician reports of pesticide cases to the Department of Health may include information taken from the relevant pesticide records.

Substitute Bill Compared to Original Bill: The substitute bill: (1) clarifies that the authority of the Department of Labor and Industries and the Department of Agriculture to inspect pesticide records is not limited for pesticide-related injuries, illnesses, fatalities, accidents, or complaints; (2) makes pesticide application records accessible to workers for 30 days after pesticide application, instead of two weeks; and (3) makes it discretionary to include pesticide record information in the physician report to the Department of Health.

Fiscal Note: Requested January 29, 1992.

Effective Date of Substitute Bill: Sections 1 through 3 of the bill take effect immediately. Section 4, changing requirements for physician reporting, takes effect January 1, 1993.

Testimony For: For several years, growers and employees have been working to resolve contentious issues relating to pesticide recordkeeping. This effort has been conducted in good faith and a reasonable compromise has been achieved.

Testimony Against: None.

Witnesses: (In support) Jeff Johnson, Washington State Labor Council; and Mark Triplett, Agri-Business Coalition.