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ENGROSSED SENATE BILL 5009

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Barr, Newhouse, Bailey, Anderson and Hansen.

Read first time January 14, 1991. Referred to Committee on Agriculture & Water Resources.

1            AN ACT Relating to pesticide posting and record keeping; amending  
2 RCW 17.21.100, 49.70.117, and 49.70.119; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) The pesticide records shall be readily available to: The  
28 department; treating medical personnel initiating diagnostic testing or  
29 therapy for a patient with a suspected case of pesticide poisoning; the  
30 department of social and health services; the pesticide incident

1 reporting and tracking panel; and, in the case of an industrial  
2 insurance claim filed under Title 51 RCW with the department of labor  
3 and industries, the employee or the employee's designated  
4 representative and the department of labor and industries.

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

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

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

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

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

28 (2) When pesticide warning signs are required under this section,  
29 the employer shall post signs visible from all usual points of entry to

1 the pesticide-treated area. If there are no usual points of entry or  
2 the area is adjacent to an unfenced public right of way, signs shall be  
3 posted (a) at each corner of the pesticide-treated area, and (b) at  
4 intervals not exceeding six hundred feet, or (c) at other locations  
5 approved by the department that provide maximum visibility.

6 (3) The signs shall be posted (~~((no sooner than twenty-four hours))~~)  
7 before the (~~((scheduled))~~) application of the pesticide but not more than  
8 seven days prior to the scheduled application, remain posted during  
9 application and throughout the applicable reentry interval, and be  
10 removed within two days after the expiration of the applicable reentry  
11 interval and before employee reentry is permitted. Employees working  
12 in an area scheduled for a pesticide application shall be informed of  
13 the application and shall vacate the area scheduled to be sprayed prior  
14 to application of the pesticide.

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

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

24 (1) An employer who (~~((applies or))~~) stores pesticides in connection  
25 with the production of an agricultural crop shall compile and maintain  
26 a workplace pesticide list (~~((by crop))~~) for each pesticide that is  
27 (~~((applied to a crop or))~~) stored in a work area. The workplace pesticide  
28 list shall be kept on a form prescribed by the department and shall  
29 contain at least the following information:

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

3 (b) The year, month, day, and time the pesticide was (~~applied~~)  
4 first stored;

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

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

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

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

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

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

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

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

24 (3) The workplace pesticide list may be prepared for the workplace  
25 as a whole or for each work area and must be readily available to  
26 employees and their designated representatives. New or newly assigned  
27 employees shall be made aware of the pesticide chemical list before  
28 working with pesticides or in a work area containing pesticides.

29 (4) An employer subject to this section shall maintain (~~one~~) a  
30 form for each (~~crop,~~) work area(~~,~~) or workplace as a whole, as

1 appropriate, and shall add information to the form as different  
2 pesticides are (~~applied or~~) stored. The forms shall be accessible  
3 and available for copying and shall be stored in a location suitable to  
4 preserve their physical integrity. The employer shall maintain and  
5 preserve the forms required under this section for no less than seven  
6 years. The records shall include an estimation of the total amount of  
7 each pesticide listed on the forms.

8 (5) An employer who applies pesticides in connection with the  
9 production of an agricultural crop shall maintain records in accordance  
10 with the provisions of RCW 17.21.100. Such records shall be available  
11 to the director of the department of labor and industries, upon  
12 request.

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

17 (~~(6)~~) (7) If activities for which forms are maintained cease at  
18 a workplace, the forms shall be filed with the department. If an  
19 employer subject to this section is succeeded or replaced in that  
20 function by another person, the person who succeeds or replaces the  
21 employer shall retain the forms as required by this section but is not  
22 liable for violations committed by the former employer under this  
23 chapter or rules adopted under this chapter, including violations  
24 relating to the retention and preservation of forms.

25 (~~(7)~~) (8) The employer shall provide copies of the forms, on  
26 request, to an employee or the employee's designated representative in  
27 the case of an industrial insurance claim filed under Title 51 RCW with  
28 the department of labor and industries, treating medical personnel, the  
29 pesticide incident reporting and tracking review panel, or department  
30 representative. The designated representative or treating medical

1 personnel are not required to identify the employee represented or  
2 treated. The department shall keep the name of any affected employee  
3 confidential in accordance with RCW 49.17.080(1). If an employee, a  
4 designated representative, treating medical personnel, or the pesticide  
5 incident reporting and tracking review panel requests a copy of a form  
6 and the employer refuses to provide a copy, the requester shall notify  
7 the department of the request and the employer's refusal. Within seven  
8 working days, the department shall request that the employer provide  
9 the department with all pertinent copies, except that in a medical  
10 emergency the request shall be made within two working days. The  
11 employer shall provide copies of the form to the department within  
12 twenty-four hours after the department's request.

13 ~~((+8+))~~ (9) The department of labor and industries and the  
14 department of agriculture shall jointly adopt, by rule, ~~((one))~~ a form  
15 that satisfies the information requirements of this section and RCW  
16 17.21.100. Records ~~((kept))~~ submitted by the employer on the  
17 prescribed form under RCW 17.21.100 may be used to comply with the  
18 workplace pesticide list information requirements under this section.

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