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HOUSE BILL 2228

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State of Washington                      52nd Legislature    1991 1st Special Session

By Representatives Prentice, Heavey, Cole, Belcher, Jones, Mitchell, Nelson, Jacobsen, Wang, Franklin, Leonard, O'Brien, R. King, Brekke, Braddock, Pruitt, Valle, Appelwick, Phillips, Wineberry, Fraser, Peery, H. Myers and Anderson.

Read first time June 18, 1991. Referred to Committee on Agriculture & Rural Development\Commerce & Labor.

1            AN ACT Relating to pesticide posting and recordkeeping; and  
2 amending RCW 17.21.100, 49.70.117, and 49.70.119.

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 and  
8 all persons applying pesticides to more than one acre of agricultural  
9 land in a calendar year, including public entities engaged in roadside  
10 spraying of pesticides, shall keep all required records, and submit to  
11 the director any records requested by the director, on a form  
12 prescribed by the director or on an alternative form or in an  
13 alternative format, specifically approved by the director for use by  
14 that applicator under criteria adopted by rule, which shall include the  
15 following 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) Records shall be updated on the same day that a pesticide is  
20 applied. A commercial pesticide applicator who applies a pesticide to  
21 an agricultural crop or agricultural lands shall submit a copy of the  
22 application records to the owner, or to the lessee if applied on behalf  
23 of the lessee, of the lands to which the pesticide is applied.

24 (3) Such records shall be kept by the licensed applicator or such  
25 other person or entity applying the pesticides for a period of seven  
26 years from the date of the application of the pesticide to which such  
27 records refer(~~(, and the director shall, upon request in writing, be~~  
28 ~~furnished with a copy of such records forthwith by the licensee:~~  
29 ~~PROVIDED, That the director may require the submission of such records~~  
30 ~~within thirty days of the application of any restricted use pesticide~~

1 ~~in prescribed areas controlling the use of such restricted use~~  
2 ~~pesticide)).~~

3 (4) The pesticide records shall be readily available to: The  
4 department; treating medical personnel initiating diagnostic testing or  
5 therapy for a patient with a suspected case of pesticide poisoning; the  
6 department of social and health services; the pesticide incident  
7 reporting and tracking panel; and, in the case of an industrial  
8 insurance claim filed under Title 51 RCW with the department of labor  
9 and industries, the employee or the employee's designated  
10 representative and the department of labor and industries. In  
11 addition, the director may require the submission of such records on a  
12 routine basis within thirty days of the application of any restricted  
13 use pesticide in prescribed areas controlling the use of such  
14 restricted use pesticide.

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

24 (6) The department of agriculture and the department of labor and  
25 industries shall jointly adopt, by rule, ~~((one form that satisfies))~~  
26 forms that satisfy the information requirements of this section and RCW  
27 49.70.119. ~~((Records kept on the prescribed form under RCW 49.70.119~~  
28 ~~may be used to comply with this section.~~

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

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

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

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

17       (3) The signs shall be posted (~~no sooner than twenty-four hours~~)  
18 before the scheduled application of the pesticide but not more than  
19 twenty-four hours prior to the scheduled application, remain posted  
20 during application and throughout the applicable reentry interval, and  
21 be removed within two days after the expiration of the applicable  
22 reentry interval and before employee reentry is permitted. Employees  
23 working in an area scheduled for a pesticide application shall be  
24 informed of the application and shall vacate the area to be sprayed  
25 prior to application of the pesticide.

26       (4) Signs shall be legible for the duration of use. Signs shall  
27 contain a prominent symbol approved by the department of agriculture  
28 and the department of labor and industries by rule, and wording shall  
29 be in English and Spanish or other languages as required by the

1 department. Signs shall meet the minimum specifications of rules  
2 adopted by the department, which rules shall include, at a minimum,  
3 size and lettering requirements.

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

6 (1) An employer who applies or stores pesticides in connection with  
7 the production of an agricultural crop shall compile and maintain ((a  
8 ~~workplace pesticide list~~)) records by crop for each pesticide that is  
9 applied to a crop ((~~or~~)) and for each pesticide that is stored in a  
10 work area. The ((~~workplace pesticide list~~)) pesticide records shall be  
11 kept and shall be submitted to the department upon request, on ((a))  
12 forms prescribed by the department ((~~and shall contain at least the~~  
13 ~~following information:~~

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

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

17 ~~(c) 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 was applied or stored;~~

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

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

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

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

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

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

5       ~~(2))~~ or on an alternative form or in an alternative format,  
6 specifically approved by the department for use by that employer under  
7 criteria adopted by rule, and shall include the information required by  
8 this section.

9       (2) For pesticide application, the records required in subsection  
10 (1) of this section shall include the information required under RCW  
11 17.21.100(1) for pesticide application records.

12       (3) For pesticide storage, the records required in subsection (1)  
13 of this section shall include the following information:

14       (a) The location of the site where the pesticide is stored;

15       (b) The year, month, day, and time the pesticide was first stored;

16       (c) The product name used on the registered label and the United  
17 States environmental protection agency registration number, if  
18 applicable, of the pesticide that is stored; and

19       (d) The amount of pesticide stored.

20       (4) The employer shall update the ((workplace pesticide list))  
21 pesticide application records on the same day that a pesticide is  
22 applied ((or)) and the pesticide storage records by the start of the  
23 Monday after a pesticide is first stored in a work area.

24       ~~((3))~~ (5) The ((workplace pesticide list)) pesticide records may  
25 be prepared for the workplace as a whole or for each work area and must  
26 be readily available to employees and their designated representatives.  
27 New or newly assigned employees shall be made aware of the pesticide  
28 ((chemical list)) records before working with pesticides or in a work  
29 area containing pesticides.

1        ~~((4))~~ (6) An employer subject to this section shall maintain  
2 ~~((one form))~~ records for each crop, work area, or workplace as a whole,  
3 as appropriate, and shall add information to the ~~((form))~~ records as  
4 different pesticides are applied or stored. The ~~((forms))~~ records  
5 shall be accessible and available for copying and shall be stored in a  
6 location suitable to preserve their physical integrity. The employer  
7 shall maintain and preserve the ~~((forms))~~ records required under this  
8 section for no less than seven years. If the employer has been  
9 provided a copy of a pesticide application record as provided in RCW  
10 17.21.100(2), the copy may be used as the record of the pesticide  
11 application required under this section. The records shall include an  
12 estimation of the total amount of each pesticide listed on the  
13 ~~((forms))~~ records.

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

18        ~~((6))~~ (8) If activities for which ~~((forms))~~ records are  
19 maintained cease at a workplace, the ~~((forms))~~ records shall be filed  
20 with the department. If an employer subject to this section is  
21 succeeded or replaced in that function by another person, the person  
22 who succeeds or replaces the employer shall retain the ~~((forms))~~  
23 records as required by this section but is not liable for violations  
24 committed by the former employer under this chapter or rules adopted  
25 under this chapter, including violations relating to the retention and  
26 preservation of ~~((forms))~~ records.

27        ~~((7))~~ (9) The employer shall provide copies of the ~~((forms))~~  
28 records, on request, to an employee or the employee's designated  
29 representative in the case of an industrial insurance claim filed under  
30 Title 51 RCW with the department of labor and industries, treating

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

16 ~~((+8))~~ (10) The department of labor and industries and the  
17 department of agriculture shall jointly adopt, by rule, ~~((one form that  
18 satisfies))~~ forms that satisfy the information requirements of  
19 subsection (2) of this section and RCW 17.21.100. ~~((Records kept by  
20 the employer on the prescribed form under RCW 17.21.100 may be used to  
21 comply with the workplace pesticide list information requirements under  
22 this section.))~~