
SENATE BILL 5762

State of Washington

53rd Legislature

1993 Regular Session

By Senators Prentice and Franklin

Read first time 02/12/93. Referred to Committee on Agriculture.

1 AN ACT Relating to the termination of the pesticide incident
2 reporting and tracking review panel; amending RCW 15.58.070, 15.58.415,
3 15.92.070, 17.21.100, 17.21.360, and 49.70.119; and repealing RCW
4 70.104.070, 70.104.080, 70.104.090, and 70.104.100.

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

6 **Sec. 1.** RCW 15.58.070 and 1989 c 380 s 6 are each amended to read
7 as follows:

8 (1) Any person desiring to register a pesticide with the department
9 shall pay to the director an annual registration fee for each pesticide
10 registered by the department for such person. The registration fee for
11 the registration of pesticides for any one person during a calendar
12 year shall be: One hundred five dollars for each of the first twenty-
13 five pesticides registered; one hundred dollars for each of the twenty-
14 sixth through one-hundredth pesticides registered; seventy-five dollars
15 for each of the one hundred first through one hundred fiftieth
16 pesticides registered; and fifty dollars for each additional pesticide
17 registered. In addition, the department may establish by rule a
18 registration fee not to exceed ten dollars for each registered product
19 labeled and intended for home and garden use only. The revenue

1 generated by the home and garden use only fees shall be deposited in
2 the (~~(agriculture—)~~) agricultural local fund(~~(, to be used to assist~~
3 ~~in funding activities of the pesticide incident reporting and tracking~~
4 ~~review panel)~~). All pesticide registrations expire on December 31st of
5 each year.

6 (2) Any registration approved by the director and in effect on the
7 31st day of December for which a renewal application has been made and
8 the proper fee paid, continues in full force and effect until the
9 director notifies the applicant that the registration has been renewed,
10 or otherwise denied in accord with the provision of RCW 15.58.110.

11 **Sec. 2.** RCW 15.58.415 and 1989 c 380 s 32 are each amended to read
12 as follows:

13 Each registration and licensing fee under this chapter is increased
14 by a surcharge of five dollars to be deposited in the (~~(agriculture—)~~)
15 agricultural local fund, provided that an additional one-time surcharge
16 of five dollars shall be collected on January 1, 1990. The revenue
17 raised by the imposition of this surcharge shall be used to assist in
18 funding the (~~(pesticide incident reporting and tracking review panel,~~)
19 department of social and health services' pesticide investigations(~~(,)~~)
20 and the department of agriculture's pesticide investigations.

21 **Sec. 3.** RCW 15.92.070 and 1991 c 341 s 8 are each amended to read
22 as follows:

23 The laboratory is advised by a board appointed by the dean of the
24 Washington State University college of agriculture and home economics.
25 The dean shall cooperate with appropriate officials in Washington,
26 Idaho, and Oregon in selecting board members.

27 (1) The board shall consist of one representative from each of the
28 following interests: A human toxicologist or a health professional
29 knowledgeable in worker exposure to pesticides, the Washington State
30 University vice-provost for research or research administrator,
31 representatives from the state department of agriculture, the
32 department of ecology, the department of health, the department of
33 labor and (~~(industry—[industries])~~) industries, privately owned
34 Washington pesticide analytical laboratories, federal regional
35 pesticide laboratories, an Idaho and Oregon laboratory, whether state,
36 university, or private, a chemical and fertilizer industry
37 representative, farm organizations, food processors, marketers, farm

1 labor, environmental organizations, and consumers. Each board member
2 shall serve a three-year term. The members of the board shall serve
3 without compensation but shall be reimbursed for travel expenses
4 incurred while engaged in the business of the board as provided in RCW
5 43.03.050 and 43.03.060.

6 (2) The board is in liaison with the pesticide advisory board (~~and~~
7 ~~the pesticide incident reporting and tracking panel~~) and shall review
8 the chemicals investigated by the laboratory according to the following
9 criteria:

10 (a) Chemical uses for which a data base exists on environmental
11 fate and acute toxicology, and that appear safer environmentally than
12 pesticides available on the market;

13 (b) Chemical uses not currently under evaluation by public
14 laboratories in Idaho or Oregon for use on Washington crops;

15 (c) Chemicals that have lost or may lose their registration and
16 that no reasonably viable alternatives for Washington crops are known;
17 and

18 (d) Other chemicals vital to Washington agriculture.

19 (3) The laboratory shall conduct research activities using approved
20 good laboratory practices, namely procedures and recordkeeping required
21 of the national IR-4 minor use pesticide registration program.

22 (4) The laboratory shall coordinate activities with the national
23 IR-4 program.

24 **Sec. 4.** RCW 17.21.100 and 1992 c 173 s 1 are each amended to read
25 as follows:

26 (1) Pesticide applicators licensed under the provisions of this
27 chapter and all persons applying pesticides to more than one acre of
28 agricultural land in a calendar year, including public entities engaged
29 in roadside spraying of pesticides, shall keep records for each
30 application which shall include the following information:

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

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

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

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

37 (e) The amount of pesticide applied per acre or other appropriate
38 measure.

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

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

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

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.

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

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

13 (b) A commercial pesticide applicator who applies a pesticide to an
14 agricultural crop or agricultural lands shall provide a copy of the
15 records required under subsection (1) of this section for the
16 application to the owner, or to the lessee if applied on behalf of the
17 lessee, of the lands to which the pesticide is applied. Records
18 provided by a commercial pesticide applicator to the owner or lessee of
19 agricultural lands under this subsection need not be provided on a form
20 adopted by the department.

21 (3) The records required under this section shall be maintained and
22 preserved by the licensed applicator or such other person or entity
23 applying the pesticides for no less than seven years from the date of
24 the application of the pesticide to which such records refer. If the
25 pesticide was applied by a commercial pesticide applicator to the
26 agricultural crop or agricultural lands of a person who employs one or
27 more employees, as "employee" is defined in RCW 49.70.020, the records
28 shall also be kept by the employer for a period of seven years from the
29 date of the application of the pesticide to which the records refer.

30 (4)(a) The pesticide records shall be readily accessible to the
31 department for inspection. Copies of the records shall be provided on
32 request to: The department; the department of labor and industries;
33 treating health care personnel initiating diagnostic testing or therapy
34 for a patient with a suspected case of pesticide poisoning; the
35 department of health; (~~the pesticide incident reporting and tracking
36 review panel;~~) and, in the case of an industrial insurance claim filed
37 under Title 51 RCW with the department of labor and industries, the
38 employee or the employee's designated representative. In addition, the
39 director may require the submission of the records on a routine basis

1 within thirty days of the application of any restricted use pesticide
2 in prescribed areas controlling the use of the restricted use
3 pesticide. When a request for records is made under this subsection by
4 treating health care personnel and the record is required for
5 determining treatment, copies of the record shall be provided
6 immediately. For all other requests, copies of the record shall be
7 provided within seventy-two hours.

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

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

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

37 (7) The department of agriculture and the department of labor and
38 industries shall jointly adopt, by rule, forms that satisfy the
39 information requirements of this section.

1 **Sec. 5.** RCW 17.21.360 and 1989 c 380 s 66 are each amended to read
2 as follows:

3 Each registration and licensing fee under this chapter is increased
4 by a surcharge of five dollars to be deposited in the (~~(agriculture)~~)
5 agricultural local fund(~~(, provided that an additional one-time~~
6 ~~surcharge of five dollars shall be collected on January 1, 1990))~~). The
7 revenue raised by the imposition of this surcharge shall be used to
8 assist in funding the (~~(pesticide incident reporting and tracking~~
9 ~~review panel,~~) department of social and health services' pesticide
10 investigations(~~(,)~~) and the department of agriculture's pesticide
11 investigations.

12 **Sec. 6.** RCW 49.70.119 and 1992 c 173 s 3 are each amended to read
13 as follows:

14 (1) An employer who applies pesticides in connection with the
15 production of an agricultural crop, or who causes pesticides to be
16 applied in connection with such production, shall keep records for each
17 application, which shall include the following information:

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

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

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

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

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

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

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

30 (h) If applicable, the licensed applicator's name, address, and
31 telephone number and the name of the individual or individuals making
32 the application;

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

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

1 (2) The records shall be updated on the same day that a pesticide
2 is applied. If the employer has been provided a copy of a pesticide
3 application record under RCW 17.21.100(2)(b), the copy may be used as
4 the record of the pesticide application required under this section.
5 The employer shall maintain and preserve the pesticide application
6 records for no less than seven years from the date of the application
7 of the pesticide to which the records refer.

8 (3) The pesticide application records shall be readily accessible
9 to the employer's employees and their designated representatives in a
10 central location in the workplace beginning on the day the application
11 is made and for at least thirty days following the application. The
12 employee or representative shall be entitled to view the pesticide
13 application records and make his or her own record from the information
14 contained in the application records. New or newly assigned employees
15 shall be made aware of the accessibility of the application records
16 before working with pesticides or in a work area containing pesticides.

17 (4)(a) An employer subject to this section who stores pesticides
18 shall at least once in each calendar year perform an inventory of the
19 pesticides stored in any work area. The pesticide inventory records
20 shall include the following information:

- 21 (i) The location of the site where the pesticide is stored;
- 22 (ii) The year, month, day, and time the pesticide was first stored;
- 23 (iii) 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 is stored; and
- 26 (iv) The amount of pesticide in storage at the time of the
27 inventory.

28 The inventory records shall be maintained and preserved for no less
29 than seven years.

30 (b) In addition to performing the annual pesticide inventory
31 required under this subsection, an employer shall maintain a record of
32 pesticide purchases made between the annual inventory dates. In lieu
33 of this purchase record, an employer may obtain from distributors from
34 whom pesticides are purchased a statement obligating the distributor to
35 maintain the purchase records on behalf of the employer and in
36 satisfaction of the employer's obligations under this subsection. The
37 director may require the submission of all purchase records from
38 employers or distributors, covering the purchases during a specified
39 period of time or in a specified geographical area.

1 (5) If activities for which the records are maintained cease, the
2 records shall be filed with the department. If an employer subject to
3 this section is succeeded or replaced in that function by another
4 person, the person who succeeds or replaces the employer shall retain
5 the records as required by this section but is not liable for
6 violations committed by the former employer under this chapter or rules
7 adopted under this chapter, including violations relating to the
8 retention and preservation of records.

9 (6)(a) The records required under this section shall be readily
10 accessible to the department for inspection. Copies of the records
11 shall be provided, on request, to: An employee or the employee's
12 designated representative in the case of an industrial insurance claim
13 filed under Title 51 RCW with the department of labor and industries,
14 treating health care personnel, (~~the pesticide incident reporting and~~
15 ~~tracking review panel,~~) or department representative. The designated
16 representative or treating health care personnel are not required to
17 identify the employee represented or treated. The department shall
18 keep the name of any affected employee confidential in accordance with
19 RCW 49.17.080(1). When a request for records is made under this
20 subsection by treating health care personnel and the record is required
21 for determining treatment, copies of the record shall be provided
22 immediately. For all other requests, copies of the records shall be
23 provided within seventy-two hours.

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

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

34 (7) If a request for a copy of a record is made under this section
35 and the employer refuses to provide a copy, the requester may notify
36 the department of the request and the employer's refusal. Within seven
37 working days, the department shall request that the employer provide
38 the department with all pertinent copies of the records, except that in
39 a medical emergency the request shall be made within two working days.

1 The employer shall provide copies of the records to the department
2 within twenty-four hours after the department's request.

3 (8) The department shall include inspection of the records required
4 under this section as part of any on-site inspection of a workplace
5 conducted under this chapter or chapter 49.17 RCW. The inspection
6 shall determine whether the records are readily transferable to a form
7 adopted by the department, and readily accessible to employees.
8 However, no employer subject to a department inspection may be
9 inspected under this subsection (8) more than once in any calendar
10 year, unless a previous inspection has found recordkeeping violations.
11 If recordkeeping violations are found, the department may conduct
12 reasonable multiple inspections, pursuant to rules adopted by the
13 department. Nothing in this subsection (8) limits the department's
14 inspection of records pertaining to pesticide-related injuries,
15 illnesses, fatalities, accidents, or complaints.

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

20 (10) The department of labor and industries and the department of
21 agriculture shall jointly adopt, by rule, forms that satisfy the
22 information requirements of this section and RCW 17.21.100.

23 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
24 repealed:

- 25 (1) RCW 70.104.070 and 1989 c 380 s 67;
26 (2) RCW 70.104.080 and 1991 c 3 s 363 & 1989 c 380 s 68;
27 (3) RCW 70.104.090 and 1991 c 3 s 364 & 1989 c 380 s 69; and
28 (4) RCW 70.104.100 and 1989 c 380 s 70.

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