

HOUSE BILL REPORT

ESB 5009

*As Reported By House Committee on:
Agriculture & Rural Development*

Title: An act relating to pesticide posting and record keeping.

Brief Description: Changing record keeping and posting requirements for pesticide use.

Sponsor(s): Senators Barr, Newhouse, Bailey, Anderson and Hansen.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, March 26, 1991, DPA.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; McLean; Rasmussen; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: Pesticide Records. The Pesticide Application Act requires certain persons who use pesticides to be licensed. It requires all persons licensed under the act, except dairy farmers applying pesticides to their own farms, and all persons who apply pesticides to more than one acre of agricultural land in a calendar year to keep records of their pesticide applications on forms prescribed by the director of the Department of Agriculture. The records must be kept for seven years from the date of the application of a pesticide and must be readily available to: the Department of Agriculture; the Department of Social and Health Services; the Pesticide Incident and Reporting and Tracking 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 that department.

Under the Worker and Community Right to Know Act, 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 kept on a form prescribed by the Department of Labor and Industries for not less than seven years. The list must be updated on the day that a pesticide is applied or first stored. The list must be readily available to employees and their representatives. It must be accessible and available for copying. It must be provided, on request, to: the Department of Labor and Industries; the Pesticide Incident and Reporting and Tracking Panel; treating medical personnel; or an employee or the employee's designated representative in the case of an industrial insurance claim.

Both acts require the Department of Agriculture and the Department of Labor and Industries to jointly adopt, by rule, one form that satisfies these information requirements. Pesticide records kept under one act may be used to satisfy the record-keeping requirements of the other.

Posting. The Worker and Community Right to Know Act requires that an area in which an agricultural crop is grown be posted with warning signs if a pesticide is applied to the crop. This requirement applies if the "reentry interval," the interval after which workers may enter the area after the pesticide is applied, assigned to the pesticide is more than 24 hours and the crop is a labor intensive crop. Such signs may be posted in the area not more than 24 hours before the pesticide is applied.

Summary of Amended Bill: Pesticide Records Generally. The pesticide application records which are currently required under the state's Pesticide Application Act or Worker and Community Right to Know Act must no longer be maintained on forms adopted by the state. However, if a person who has access to those records under current law requests the information, the information must be supplied to the person on the state's forms. These forms must be adopted by the Department of Agriculture, not, as under current law, by the Department of Agriculture and the Department of Labor and Industries.

Worker and Community Right to Know Act. The provisions of the Worker and Community Right to Know Act are repealed which require employers who apply or store pesticides in connection with the production of an agricultural crop to keep a workplace pesticide list. However, such an employer must keep records regarding each pesticide application which must include the information required under the Pesticide

Application Act. A person who currently has access to the workplace pesticide list has access to this application information.

The act no longer prohibits pesticide warning signs from being posted sooner than 24 hours before the scheduled application of a pesticide on a labor intensive crop. However, the signs must be posted within 24 hours before the application. Employees working in the area of the application must be informed of the application and must vacate the area prior to the application of the pesticide.

Pesticide Application Act. A commercial pesticide applicator who applies a pesticide to agricultural land must submit the pesticide application information required under the act to the owner or lessee of the land. The information need not be submitted on a form adopted by the Department of Agriculture, but if it is not submitted on such a form, it must be readily understandable. The information which must be maintained under the act must be readily available to the Department of Labor and Industries under this act whether an industrial insurance claim has or has not been filed. An exemption from recordkeeping requirements regarding pesticide applications currently provided to persons who own or operate dairy farms is repealed.

Amended Bill Compared to Engrossed Senate Bill: The amendment provides the repealer of the workplace pesticide list; the engrossed senate bill reduces the list to a storage list. The amendment grants persons who currently have access to the workplace storage list, access to an employer's pesticide application information; the engrossed Senate bill limits access to the application information under the Worker and Community Right to Know Act to the Department of Labor and Industries. The amendment requires pesticide warning signs to be posted within 24 hours before a pesticide is applied to a crop; the engrossed Senate bill prohibits the signs from being posted more than seven days before the pesticide is applied.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (1) Duplicative pesticide recordkeeping requirements should be removed. (2) Farmers and aerial applicators of pesticides have developed their own recordkeeping systems which serve their billing needs and satisfy the information requirements now required under the pesticide laws. They should not have to keep records on forms which do not satisfy their own needs. (3) The

recordkeeping requirements for storing pesticides are duplicative. The same information is required under hazardous materials law and under the state's fire code. (4) The bill clarifies posting and warning requirements.

Testimony Against: (1) Only the Department of Agriculture should have access to pesticide information. All others should have to get the information through the department. (2) Current hazardous waste lists do not require the disclosure of the amount of pesticides stored. The provisions deleted by the bill are needed by the Department of Labor and Industries for this purpose.

Witnesses: Senator Barr (in favor of engrossed Senate bill); Mike Schwisow, Department of Agriculture; Bruce Ellingson, Washington Association of Apple Growers (in favor of engrossed Senate bill); Ray Shindler, Washington Wheat Growers Association (in favor); Mark Triplett, Washington Agribusiness Coalition (in favor); Bill Roberts, Washington State Farm Bureau (in favor of engrossed Senate bill with more limited access to information); and Steven Cant.