



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 314**

July 28, 2009 - Offered by Representative MOLEPSKE JR..

1 **AN ACT to create** 94.697 of the statutes; **relating to:** pesticide use by railroads.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Agriculture, Trade and Consumer Protection administers laws that regulate the sale and use of pesticides, including herbicides.

This substitute amendment requires a railroad to make pesticide safety information available no later than 48 hours before applying a pesticide to a railroad right-of-way. A railroad must make information available by posting it in a central location accessible to employees of the railroad; making it available to the public on the railroad's Internet site; providing it to individuals who supervise employees who work in the area to be treated; and providing it to each city, village, and town in which the pesticide will be applied.

The substitute amendment also requires a railroad to provide pesticide safety training annually to its employees who work in areas that are treated with pesticides annually and to keep records of that training.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 94.697 of the statutes is created to read:

1 **94.697 Railroad pesticide use. (1) DEFINITION.** In this section “railroad”
2 means a person that owns or operates any railroad or part of a railroad as a common
3 carrier in this state.

4 **(2) INFORMATION REQUIRED.** (a) No later than 48 hours before applying a
5 pesticide to a right-of-way that a railroad owns or maintains, the railroad shall
6 provide pesticide safety information at a central location accessible to employees of
7 the railroad. A railroad shall include all of the following in the safety information
8 provided under this paragraph:

- 9 1. A pesticide safety poster that complies with 40 CFR 170.135 (b).
- 10 2. The location and description of the area to be treated.
- 11 3. The name of the pesticide, its active ingredients, and its registration number
12 under the federal act.
- 13 4. The time and date that the pesticide is to be applied.
- 14 5. Any restricted entry interval specified on the pesticide labeling.
- 15 6. A description of where the information required to be on the pesticide label
16 under the federal act or under ss. 94.67 to 94.71 is available for review.
- 17 7. Emergency medical contact information.

18 (b) A railroad shall keep the information under par. (a) posted at the location
19 accessible to employees of the railroad for at least 30 days after the day of application.

20 (c) No later than 48 hours before applying a pesticide to a right-of-way that
21 a railroad owns or maintains, the railroad shall provide all of the following to each
22 individual who directly supervises employees who work in the area to be treated:

- 23 1. The information described in par. (a) 2. to 6.
- 24 2. A description of the central location where the railroad provides the pesticide
25 safety information to employees under par. (a).

1 (d) No later than 48 hours before applying a pesticide to a right-of-way that
2 a railroad owns or maintains, the railroad shall provide all of the following to the
3 clerk of each city, village, and town in which the pesticide will be applied and make
4 the information available to the public on the railroad's Internet site:

5 1. The information under par. (a) 2., 3., and 6.

6 2. The name and contact information for each commercial application business
7 or commercial applicator for hire with whom the railroad contracts to apply the
8 pesticide.

9 3. A description of how to obtain answers to questions about the pesticide
10 application.

11 **(3) WORKER PROTECTION.** A railroad shall provide pesticide safety training
12 annually to its employees who work along railroad rights-of-way and in rail yards
13 and to other employees who, due to the nature of their employment, may work in
14 areas to which pesticides have been applied and shall keep records, for each training
15 session, of the date, the employees attending, and the name of the trainer and the
16 trainer's employer. In the training under this subsection, a railroad shall include
17 information about restricted entry intervals, requirements for personal protective
18 equipment, how to read pesticide labels, and incident and complaint reporting.

19 (END)