



2009 ASSEMBLY BILL 314

June 16, 2009 – Introduced by Representatives MOLEPSKE JR., BERCEAU, RICHARDS, SINICKI, MILROY, BLACK, BENEDICT, TURNER, ZIGMUNT, JORGENSEN, ROYS, A. WILLIAMS, SOLETSKI and SMITH, cosponsored by Senators WIRCH, LASSA, PLALE, HANSEN and LEHMAN. Referred to Committee on Natural Resources.

1 **AN ACT to create** 20.115 (7) (i) and 94.697 of the statutes; **relating to:** pesticide
2 use by railroads, granting rule-making authority, and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

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

This bill requires a railroad to annually make information about its pesticide use available to the railroad's employees and those who own land adjacent to the railroad's rights-of-way. The bill generally prohibits a railroad from requiring a person to work in an area to which a pesticide has been applied within 24 hours of the application of the pesticide.

The bill requires DATCP to establish, by rule, fees to be paid by railroad companies to cover the costs DATCP incurs under the bill. The bill also requires DATCP to promulgate rules to limit the times and weather conditions in which pesticides may be applied by railroads to prevent damage to lands adjoining rights-of-way and to protect the health of employees of railroads and their contractors.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.115 (7) (i) of the statutes is created to read:

2 20.115 (7) (i) *Railroad pesticide use.* All moneys received under s. 94.697 (4)
3 (a) for the activities under s. 94.697 related to railroad pesticide use.

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

5 **94.697 Railroad pesticide use. (1) DEFINITION.** In this section “railroad”
6 means a person that owns or operates any railroad or part of a railroad as a common
7 carrier in this state.

8 **(2) INFORMATION REQUIRED.** (a) A railroad shall annually, by March 15, make
9 available to persons who own land adjacent to rights-of-way that the railroad owns
10 or maintains, persons who conduct agricultural activities on land adjacent to the
11 rights-of-way that the railroad owns or maintains, and the railroad’s employees the
12 following information concerning its pesticide applications for the 9 months
13 beginning on April 1:

14 1. A list of the pesticides that will be used, including ingredient statements and
15 the known long-term and short-term effects on humans of each pesticide.

16 2. The name, training, and contact information for each commercial applicator
17 for hire with whom the railroad contracts to apply pesticides.

18 (b) Before an individual, on behalf of a railroad, shows a commercial applicator
19 for hire where the pesticides are to be applied, the railroad shall provide a copy of the
20 information under par. (a) 1. related to that application to the individual.

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1 (c) Before pesticides are applied to a railroad right-of-way, the railroad shall
2 provide a copy of the information under par. (a) related to that application to any
3 individual who directly supervises employees who work in the right-of-way and
4 shall post that information in a location where it can be seen by any railroad
5 employee who works in the right-of way or travels through the right-of-way.

6 **(3) WORKER INFORMATION AND PROTECTION.** (a) A railroad may not require an
7 employee of the railroad or of a contractor, other than an employee who applies a
8 pesticide, to work in an area in which a pesticide has been applied within 24 hours
9 after application of the pesticide, except in case of an emergency such as a
10 derailment.

11 (b) A railroad shall provide an employee of the railroad or of a contractor who
12 is required to work in an area within 168 hours after application of a pesticide to the
13 area with a written description, in easily comprehensible language, of the pesticide
14 used and its known effects on humans.

15 (c) A railroad shall furnish, at its expense, protective equipment sufficient to
16 protect the health of an employee of the railroad or of a contractor from the effects
17 of pesticides on humans.

18 **(4) RULES.** (a) The department shall promulgate rules specifying fees to be paid
19 by railroads to cover the costs of administering this section.

20 (b) The department shall promulgate rules that do all of the following:

21 1. Limit the times and weather conditions in which pesticides may be applied
22 by or on behalf of a railroad to prevent damage to persons who own land adjacent to
23 railroad rights-of-way or who conduct agricultural activities on land adjacent to
24 railroad rights-of-way.

