



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2009 ASSEMBLY BILL 314**

September 2, 2009 – Offered by COMMITTEE ON NATURAL RESOURCES.

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; providing it to individuals who supervise employees who work in the area to be treated; and providing it to each county and municipal law enforcement agency with jurisdiction over the area in which the pesticide will be applied. The information provided to a law enforcement agency is not subject to inspection under the open records law.

The substitute amendment requires a railroad to make available to the public on its Internet site a description of how to obtain answers to questions about pesticide use by the railroad.

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:

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

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

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

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.

1 (c) 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 each
3 individual who directly supervises employees who work in the area to be treated:

4 1. The information described in par. (a) 2. to 6.

5 2. A description of the central location where the railroad provides the pesticide
6 safety information to employees under par. (a).

7 (d) No later than 48 hours before applying a pesticide to a right-of-way that
8 a railroad owns or maintains, the railroad shall provide to each county and municipal
9 law enforcement agency with jurisdiction over the area in which the pesticide will
10 be applied a description of the area to be treated and of how to obtain answers to
11 questions about the pesticide application, including a telephone number for the
12 railroad and any toll-free telephone number maintained by the department to
13 provide information about pesticides. Information provided under this paragraph
14 is not subject to the right of inspection or copying under s. 19.35 (1).

15 (e) A railroad shall make available to the public on its Internet site a
16 description of how to obtain answers to questions about pesticide use by the railroad,
17 including a telephone number for the railroad and any toll-free number maintained
18 by the department to provide information about pesticide use.

19 **(3) WORKER PROTECTION.** A railroad shall provide pesticide safety training
20 annually to its employees who work along railroad rights-of-way and in rail yards
21 and to other employees who, due to the nature of their employment, may work in
22 areas to which pesticides have been applied and shall keep records, for each training
23 session, of the date, the employees attending, and the name of the trainer and the
24 trainer's employer. In the training under this subsection, a railroad shall include

1 information about restricted entry intervals, requirements for personal protective
2 equipment, how to read pesticide labels, and incident and complaint reporting.

3 (END)