

**2009 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB314)**

Received: **09/09/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Louis Molepske Jr (608) 267-9649**

By/Representing: **Lloyd Clark**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - pesticides**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Molepske@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Pesticide use by railroads, committee substitute amendment

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 09/09/2009	nnatzke 09/09/2009		_____			
/1			jfrantze 09/09/2009	_____	sbasford 09/09/2009	sbasford 09/09/2009	

FE Sent For:

Handwritten notes: An arrow points from the text 'FE Sent For:' to '09-17-2009 (1/1)'. Another arrow points from '09-17-2009 (1/1)' to a circled note that says 'see attached'. To the right of the circled note is the text '<END>'.

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/?	btradewe	/1 nwn 9/9/09	J 9/9	Ph 9/9			

FE Sent For:

<END>

**Tradewell, Becky**

---

**From:** Clark, Lloyd  
**Sent:** Friday, September 04, 2009 2:50 PM  
**To:** Tradewell, Becky  
**Subject:** ASA1, AA1 and AA1 to AA1 - AB 314

Hi Becky,

The Committee combined all of the amendments into a single ASA2 - could you please draft this and send it straight over to Kay in the Chief Clerk's office?

Thanks

**LLOYD CLARK**

OFFICE OF REPRESENTATIVE LOUIS J. MOLEPSKE, JR.  
CHAIR - COMMITTEE ON JOBS, THE ECONOMY, AND SMALL BUSINESS  
608-267-9649  
888-534-0071



State of Wisconsin  
2009 - 2010 LEGISLATURE

0116/1  
LRBs 0092/1  
RCT:bjk&nwn:md

Today, if possible

ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 314

July 28, 2009 - Offered by Representative MOLEPSKE JR.

SA ✓

1 <sup>Regen.</sup> 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. *Analysis insert - B*

*Analysis insert A*

*Analysis insert C*

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. <sup>✓</sup> 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).

Insert a0600-2

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.

Insert  
a0600-4

Insert a0600-3

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)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0116/1ins  
RCT.....

**Analysis insert-A**

county and municipal law enforcement agency with jurisdiction over the area ✓

**Analysis insert-B**

NO ~~FF~~ The information provided to a law enforcement agency is not subject to inspection under the open records law. ✓

**Analysis insert-C**

~~FF~~ 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. ✓



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

August 20, 2009 - Offered by Representative MOLEPSKE JR..

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 9: delete that line.

3 **2.** Page 3, line 2: delete the material beginning with "all" and ending with  
4 "description" on line 9 and substitute "to each county and municipal law enforcement  
5 agency with jurisdiction over the area in which the pesticide will be applied a  
6 description of the area to be treated and".

7 **3.** Page 3, line 10: after "application" insert ", including a telephone number  
8 for the railroad and any toll-free telephone number maintained by the department  
9 to provide information about pesticides".

10 **4.** Page 3, line 10: after that line insert:

11 "(e) A railroad shall make available to the public on its Internet site a  
12 description of how to obtain answers to questions about pesticide use by the railroad,

Insert  
a0600-2

Insert  
a0600-3

Insert a0627

Insert  
a0600-4



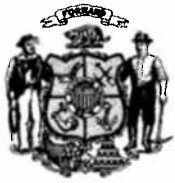


*Insert aC600-4, continued*

1 including a telephone number for the railroad and any toll-free number maintained  
2 by the department to provide information about pesticide use".

3

(END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa0627/1  
RCT:bjk:rs

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

August 31, 2009 - Offered by Representative MOLEPSKE JR..

*Insert a0627*

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 9: after "pesticides" insert ". Information provided under this

3 paragraph is not subject to the right of inspection or copying under s. 19.35 (1)".

4 (END)

## Barman, Mike

---

**From:** LaBelle, Vicky L - DOA [vicky.labelle@wisconsin.gov]  
**Sent:** Thursday, September 17, 2009 10:03 AM  
**To:** Barman, Mike  
**Subject:** FW: AB314

DATCP

Hi, Mike. Does the LRB need to do anything first on AB-314?

---

**From:** Kraus, Jennifer - DOA  
**Sent:** Thursday, September 17, 2009 9:56 AM  
**To:** LaBelle, Vicky L - DOA; Grinde, Kirsten - DOA; Walker, William D - DATCP  
**Subject:** FW: AB314

fyi

Bill - pls send me an e-mail when all is done. Thanks -- Jenny

---

**From:** Hanaman, Cathlene [mailto:Cathlene.Hanaman@legis.wisconsin.gov]  
**Sent:** Thursday, September 17, 2009 9:49 AM  
**To:** Kraus, Jennifer - DOA  
**Cc:** Duerst, Christina - LEGIS  
**Subject:** RE: AB314

We are submitting the request to DOA for a FE on the sub under Joint Rule 48 (2). I am cc'ing one of our fiscal estimate gurus on this message.

---

**From:** Kraus, Jennifer - DOA [mailto:jennifer.kraus@wisconsin.gov]  
**Sent:** Thursday, September 17, 2009 9:29 AM  
**To:** Hanaman, Cathlene  
**Subject:** FW: AB314

Hi - Can you see if we should do this as a revised estimate vs. the supplemental - we ultimately want DATCP to do it, not DOA or LFB. Please advise and/or initiate from your end if necessary.

Thanks- Jenny

---

**From:** LaBelle, Vicky L - DOA  
**Sent:** Thursday, September 17, 2009 8:54 AM  
**To:** Kraus, Jennifer - DOA  
**Cc:** Grinde, Kirsten - DOA; Walker, William D - DATCP  
**Subject:** RE: AB314

I inactivated the request for DNR to submit a fiscal estimate.

Regarding the substitute amendment, here's what's in the Fiscal Estimate Manual put out by the LRB and posted on the Fiscal Estimate System website:

### **BILLS MODIFIED BY AMENDMENTS.**

*Joint Rule 48 (2).* The bill's primary author may electronically submit to the LRB (Attn: Mike Barman), (phone: 266-3561) or ([lrbl.legal@legis.wisconsin.gov](mailto:lrbl.legal@legis.wisconsin.gov)) a request for assigned agencies to also prepare an *original* fiscal estimate for the bill as affected by an introduced or un-introduced simple amendment or substitute amendment. In turn the LRB will then submit the new request to DOA for assignment and will include an electronic copy of the simple amendment or substitute amendment. The request must be

09/17/2009

**Sent:** Thursday, September 17, 2009 8:14 AM

**To:** Clark, Lloyd

**Subject:** AB314

Lloyd - Tim Casper passed along your request to have a revised fiscal note done for AB314. After tracking down the history of this bill, I have the following questions:

- Do you want DATCP not DNR to do both the original and revised estimate?
- Do you want the revised estimate to be done on Assembly substitute amendment 1 or 2?

As soon as you get back to me, we can get the right fiscal estimate assigned to the right agency.

Thanks

Jennifer Kraus  
Deputy Budget Director  
Department of Administration  
608-266-1353

09/17/2009

submitted to the LRB prior to the *original* fiscal estimate's publication. If the *original* fiscal estimate has already been published the author can opt to have a *supplemental* fiscal estimate prepared (see below).

See the Assembly and the Senate Rules for additional fiscal estimate options.

**SUPPLEMENTAL FISCAL ESTIMATES.**

Legislative Joint Rules 41 (3) (a), (b), (c), and (f), 46 (4), and 48 (3) provide for the preparation and publication of *supplemental* fiscal estimates.

(1) Joint Rule 48 (3). The primary author of an introduced bill may request the Legislative Fiscal Bureau (LFB) or DOA to prepare a *supplemental* fiscal estimate on a bill if the primary author disagrees with an estimate a state agency prepared.

(2) Joint Rule 41 (3) (c). DOA may submit a *supplemental* estimate on its own initiative when the department disagrees with an *original* fiscal estimate.

(3) Joint Rule 41 (3) (b). By request of the primary author of an introduced bill, the presiding officer of either house of the Legislature may request (through DOA) that a state agency prepare a *supplemental* fiscal estimate on a bill or on a bill as affected by a proposed simple amendment or substitute amendment. DOA will notify the LRB of the request.

(4) Joint Rule 41 (3) (a). The Joint Committee on Finance, by a majority of its members or by either co-chairperson, may request from a state agency (through DOA) or from LFB a *supplemental* fiscal estimate on a bill or on a bill as affected by a proposed simple amendment or substitute amendment, if the committee or co-chairperson believes that the estimate on the bill or the modified bill would be substantially different from the estimate on the original bill.

It sounds as though Bill Walker knows what he needs to do, so unless he contacts me for further action, I won't be doing anything right now.

---

**From:** Kraus, Jennifer - DOA  
**Sent:** Thursday, September 17, 2009 8:44 AM  
**To:** LaBelle, Vicky L - DOA  
**Cc:** Grinde, Kirsten - DOA  
**Subject:** FW: AB314

Vicky - turns out we don't need one from DNR after all. DATCP needs to complete the original one and also a revised one on the substitute amendment. Bill Walker knows what they need to do. Do you need to do anything in the system on the second piece? Pls let me know

Jenny

---

**From:** Clark, Lloyd [mailto:Lloyd.Clark@legis.wisconsin.gov]  
**Sent:** Thursday, September 17, 2009 8:32 AM  
**To:** Kraus, Jennifer - DOA  
**Subject:** RE: AB314

Hi Jennifer,

DATCP should do the estimates as pesticide use falls under their purview.  
The revised estimate should be on Sub 2 as this was the sub that was adopted in committee.

I just found out the bill is to be on the floor on Tuesday. If you have any other questions (or if DATCP does) please feel free to call me.

Lloyd

---

**From:** Kraus, Jennifer - DOA [mailto:jennifer.kraus@wisconsin.gov]

09/17/2009

**Barman, Mike**

---

**From:** Clark, Lloyd  
**Sent:** Thursday, September 17, 2009 10:16 AM  
**To:** Barman, Mike  
**Subject:** Fiscal Estimate

Please draft a fiscal estimate for AB 314 Sub 2 for our office.

That work, Mike?

**LLOYD CLARK**

OFFICE OF REPRESENTATIVE LOUIS J. MOLEPSKE, JR.  
CHAIR - COMMITTEE ON JOBS, THE ECONOMY, AND SMALL BUSINESS  
608-267-9649  
888-534-0071

OK...  
Per Joint Rule  
48(2)

FE  
Requested before  
"Orig." FE on bill  
was "released"



**ACTIVE**

**LRB Number:** 09s0116/1  
**Introduction Number:** ASA2-AB314  
**Comment:** An "original" FE based on ASA2-AB314 requested ... per Joint Rule 48 (2)  
**Request Date:** 9/17/2009 10:16:35 AM  
**Description:** Pesticide use by railroads  
**Subject:** Agriculture - pesticides  
 PUBLIC DRAFT/BILL and Assignments

**Edit the Request**

**DRAFT/BILL: 09s01161.pdf**

Agency	Estimate Type	State/Local Assigned Due	Extended Stage	Submitted	Public Estimate	Retrieved
1 Department of Agriculture, Trade and Consumer Protection	Supplemental State	9/17/2009 9/24/2009	Preparer	NO	NO	NO