

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 3126**

5 (By Delegates Boggs, Smith, Hatfield, Storch, Fleischauer,  
6 Manchin, Longstreth, Sumner and Poore)

7  
8 [Passed March 12, 2011; in effect ninety days from passage.]  
9

10 AN ACT to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §31-2-16, relating to  
12 railroad companies providing pesticide safety information and  
13 training; requiring a railroad company to provide pesticide  
14 safety information at a central location accessible to  
15 employees of the railroad company; requiring a railroad  
16 company to make available to the public on its Internet site  
17 a description of how to obtain information regarding the  
18 railroad company's use of pesticides, including a telephone  
19 number for the company; and requiring a railroad company to  
20 provide pesticide safety training annually to its employees  
21 who work along railroad rights-of-way, in rail yards or other  
22 employees who may work in areas to which pesticides have been  
23 applied.

24 *Be it enacted by the Legislature of West Virginia:*

25 That the Code of West Virginia, 1931, as amended, be amended  
26 by adding thereto a new section, designated §31-2-16, to read as

1 follows:

2 **ARTICLE 2. RAILROAD COMPANIES.**

3 **§31-2-16. Railroad company pesticide use.**

4 (a) No later than seven days before applying a pesticide to a  
5 right-of-way that a railroad company owns or maintains, the  
6 railroad company shall provide pesticide safety information, which  
7 may be obtained by the railroad company's contracted pesticide  
8 applicator, by posting at affected on-duty railroad locations and  
9 through train bulletins, dispatcher messages, or other required  
10 documentation for each train and engine crew that will be working  
11 in the affected pesticide spray area. Additionally, the railroad  
12 company shall provide appropriate documentation to ensure prompt  
13 notification for maintenance of way, mechanical, signal employees,  
14 or other rail workers that will be working in the affected  
15 pesticide spray area. A railroad company shall include all of the  
16 following in the safety information provided under this  
17 subdivision:

18 (1) The location and description of the area to be treated.

19 (2) The name of the pesticide, its active ingredients, and its  
20 registration number under 7 U.S.C. §§ 136 et seq. The material  
21 safety data sheet (MSDS) for the pesticide shall satisfy this  
22 purpose.

23 (3) The approximate date and time that the pesticide is to be  
24 applied.

25 (4) Any restricted entry interval specified on the pesticide  
26 labeling. The MSDS for the pesticide shall satisfy this purpose:

1 *Provided*, That the railroad company shall not require an employee  
2 to reenter the pesticide spray area prior to the requirements  
3 specified by the MSDS on the pesticide being utilized: *Provided*  
4 *however*, That train and/or on-track movement is not prohibited.

5 (5) A description of where the information required to be on  
6 the pesticide label under 7 U.S.C. §§ 136 et seq or under the  
7 provisions of article sixteen-a, chapter nineteen of this code is  
8 available for review. The MSDS for the pesticide shall satisfy this  
9 purpose.

10 (6) Emergency medical contact information.

11 (b) A railroad company shall keep the information required by  
12 subsection (a) posted at the location accessible to employees of  
13 the railroad for at least thirty days after the day of application.

14 (c) No later than seven days before applying a pesticide to a  
15 right-of-way that a railroad company owns or maintains, the  
16 railroad company shall provide all of the following to each  
17 individual who directly supervises employees who work in the area  
18 to be treated:

19 (1) The information described in subdivision (2) to (6) of  
20 subsection (a); and

21 (2) A description of the central location where the railroad  
22 company provides the pesticide safety information to employees  
23 under the provisions of subsection (a).

24 (d) A railroad company shall make available to the public on  
25 its Internet site a description of how to obtain answers to  
26 questions about pesticide use by the railroad company, including a

1 telephone number for the railroad and any toll-free number  
2 maintained by the railroad company to provide information about  
3 pesticide use.

4 (e) A railroad company shall provide annual pesticide safety  
5 training. This training may coincide with the annual railroad  
6 operating rules class or at any other operating or safety training  
7 class that is scheduled annually. This training shall be provided  
8 to railroad employees who work along railroad rights-of-way and in  
9 rail yards and to other employees who, due to the nature of their  
10 employment, may work in areas to which pesticides have been  
11 applied. It is the duty of the railroad company to keep records for  
12 each training session, which should include, but not be limited to,  
13 the date of the training session, the employees attending, and the  
14 name of the trainer and the trainer's employer. In the training  
15 under this subsection, a railroad company shall include, but not be  
16 limited to, information about restricted entry intervals,  
17 requirements for personal protective equipment, how to read  
18 pesticide labels, and incident and complaint reporting.

19 (f) For purposes of this section, the term "pesticide" is  
20 defined by section three, article sixteen-a, chapter nineteen of  
21 this code.