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OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2011



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**House Bill No. 3126**

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



Passed March 12, 2011

In Effect Ninety Days From Passage

HB 3126

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**E N R O L L E D**

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FOR

**H. B. 3126**

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(BY DELEGATES BOGGS, SMITH, HATFIELD, STORCH,  
FLEISCHAUER, MANCHIN, LONGSTRETH, SUMNER AND POORE)

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

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

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

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

**ARTICLE 2. RAILROAD COMPANIES.**

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

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

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

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

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

23 (4) Any restricted entry interval specified on the pesticide  
24 labeling. The MSDS for the pesticide shall satisfy this  
25 purpose: *Provided*, That the railroad company shall not  
26 require an employee to reenter the pesticide spray area prior  
27 to the requirements specified by the MSDS on the pesticide  
28 being utilized: *Provided however*, That train and/or on-track  
29 movement is not prohibited.

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

35 (6) Emergency medical contact information.

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

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

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

47 (2) A description of the central location where the  
48 railroad company provides the pesticide safety information to  
49 employees under the provisions of subsection (a).

50 (d) A railroad company shall make available to the public  
51 on its Internet site a description of how to obtain answers to

52 questions about pesticide use by the railroad company,  
53 including a telephone number for the railroad and any  
54 toll-free number maintained by the railroad company to  
55 provide information about pesticide use.

56 (e) A railroad company shall provide annual pesticide  
57 safety training. This training may coincide with the annual  
58 railroad operating rules class or at any other operating or  
59 safety training class that is scheduled annually. This training  
60 shall be provided to railroad employees who work along  
61 railroad rights-of-way and in rail yards and to other  
62 employees who, due to the nature of their employment, may  
63 work in areas to which pesticides have been applied. It is the  
64 duty of the railroad company to keep records for each  
65 training session, which should include, but not be limited to,  
66 the date of the training session, the employees attending, and  
67 the name of the trainer and the trainer's employer. In the  
68 training under this subsection, a railroad company shall  
69 include, but not be limited to, information about restricted  
70 entry intervals, requirements for personal protective  
71 equipment, how to read pesticide labels, and incident and  
72 complaint reporting.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

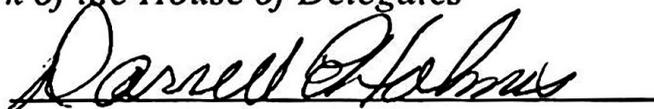
  
Chairman, House Committee

  
Chairman, Senate Committee

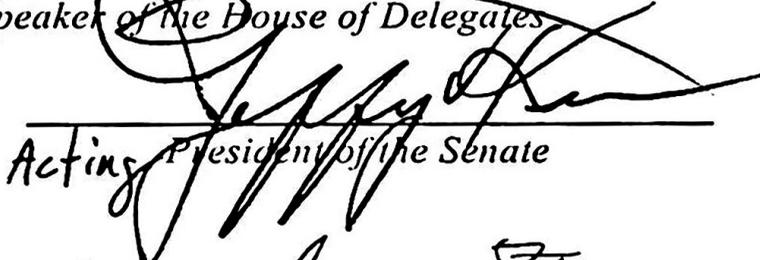
Originating in the House.

To take effect ninety days from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
Acting President of the Senate

The within is approved this the 5th  
day of April, 2011.

  
Governor

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OFFICE OF THE CLERK OF THE SENATE  
SECRETARY OF STATE

PRESENTED TO THE GOVERNOR

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