

CHAPTER 36

EXPOSURE TO CHEMICALS — VETERANS

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36.1 Definitions.

As used in this chapter unless the context otherwise provides:

1. "Agent Orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.
2. "Chemicals" means chemical defoliants, herbicides, or other causative agents, including but not limited to Agent Orange.
3. "Department" means the department of veterans affairs established in section 35A.4.
4. "Veteran" means a person who was a resident of this state at the time of the person's induction into the armed forces of the United States or who is a resident of this state July 1, 1983, and served in Vietnam, Cambodia, or Laos during the Vietnam Conflict.

83 Acts, ch 141, §1

CS83, §139A.1

86 Acts, ch 1245, §1712; 92 Acts, ch 1140, §13

C93, §36.1

2005 Acts, ch 115, §20, 21, 40; 2007 Acts, ch 202, §8

36.2 Chemical exposure report to department.

A licensed physician, as defined in section 135.1, subsection 4, who treats a veteran the physician believes may have been exposed to chemicals while serving in the armed forces of the United States shall submit a report indicating that information to the department at the request of the veteran pursuant to section 36.3.

83 Acts, ch 141, §2

CS83, §139A.2

86 Acts, ch 1245, §1713; 92 Acts, ch 1140, §14

C93, §36.2

2005 Acts, ch 115, §22, 40

36.3 Duties of the department.

The department shall:

1. Provide the forms for the reports required in section 36.2. The report form shall require the doctor to provide all of the following:

- a. Symptoms of the veteran which may be related to exposure to chemicals.
- b. Diagnosis of the veteran.
- c. Methods of treatment prescribed.

2. Annually compile and evaluate the information submitted in the reports pursuant to subsection 1, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall submit the report to the governor, the general assembly, and the United States department of veterans affairs. The report shall include current research data on the effects of exposure to chemicals, statistical information received from individual physicians' reports, and statistical information from the epidemiological investigations pursuant to subsection 3.

3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall obtain consent from a veteran before conducting the

investigations. The department shall cooperate with local and state agencies during the course of an investigation.

83 Acts, ch 141, §3

CS83, §139A.3

86 Acts, ch 1245, §1714; 92 Acts, ch 1140, §15

C93, §36.3

2005 Acts, ch 115, §23, 40; 2007 Acts, ch 22, §14; 2009 Acts, ch 26, §7

36.4 Confidentiality and liability.

The department shall not identify a veteran consenting to the epidemiological investigations pursuant to section 36.3, subsection 3, unless the veteran consents to the release of identity. The statistical information compiled by the department pursuant to section 36.3 is a public record.

A licensed physician complying with this chapter is not civilly or criminally liable for release of the required information.

83 Acts, ch 141, §4

CS83, §139A.4

86 Acts, ch 1245, §1715; 92 Acts, ch 1140, §16

C93, §36.4

2005 Acts, ch 115, §24, 40

36.5 Attorney general powers.

The attorney general may represent veterans who may have been injured because of contact with chemicals, in an action for release of information relating to exposure to such causative agents during military service and release of the veterans' medical records.

83 Acts, ch 141, §5

CS83, §139A.5

C93, §36.5

36.6 Medical cooperative program.

The department and appropriate medical facilities at the state university of Iowa under the control of the state board of regents shall institute a cooperative program to:

1. Refer veterans to appropriate state and federal agencies to file claims to remedy medical and financial problems caused by the veterans' exposure to chemicals.

2. Provide veterans with fat tissue biopsies, genetic counseling, and genetic screening upon request of the licensed physician pursuant to section 36.2, to determine if the veterans have suffered physical damage as a result of substantial exposure to chemicals.

83 Acts, ch 141, §6

CS83, §139A.6

86 Acts, ch 1245, §1716; 92 Acts, ch 1140, §17

C93, §36.6

2005 Acts, ch 115, §25, 40

36.7 Federal program.

If the department or the general assembly determines that an agency of the federal government or the state of Iowa is providing the referral and genetic services pursuant to section 36.6, the department or the general assembly by specific action may discontinue all or part of the services and requirements in this chapter.

83 Acts, ch 141, §7

CS83, §139A.7

86 Acts, ch 1245, §1717; 92 Acts, ch 1140, §18

C93, §36.7

2005 Acts, ch 115, §26, 40

36.8 Rules.

The department shall adopt rules pursuant to chapter 17A to implement this chapter.

83 Acts, ch 141, §8

CS83, §139A.8

86 Acts, ch 1245, §1718; 92 Acts, ch 1140, §19

C93, §36.8

2007 Acts, ch 202, §9

36.9 Appropriations.

This chapter shall be implemented by the department each fiscal year that appropriations are made to the department for the implementation.

83 Acts, ch 141, §9

CS83, §139A.9

86 Acts, ch 1245, §1719; 92 Acts, ch 1140, §20

C93, §36.9

2007 Acts, ch 202, §10

36.10 Veterans' litigation awards.

1. For purposes of this section, "*Vietnam herbicide*" means a herbicide, defoliant, or other causative agent containing dioxin, including, but not limited to, Agent Orange, used in the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, inclusive.

2. *a.* Notwithstanding any other law of this state, proceeds received pursuant to a judgment in, or settlement of, a lawsuit against the manufacturer or distributor of a Vietnam herbicide for damages resulting from exposure to the herbicide shall not be considered as income or an asset for determining the eligibility for state or local government benefit or entitlement programs. The proceeds are not subject to recoupment for the receipt of governmental benefits or entitlements and liens, except liens for child support, are not enforceable against these sums for any reason.

b. This exclusion of litigation proceeds from benefit or entitlement program calculations are available only to disabled veterans or their beneficiaries, whether payment is received in a lump sum or payable in installments over a period of years.

89 Acts, ch 249, §1

CS89, §139A.11

C93, §36.10