

JAN 13 1971
Agriculture, Pass 3/9, Pass amendment 2/2
Sen. " 4/26

HOUSE FILE 39

By PIERSON, WAUGH,
MIDDLESWART AND
DOUGHERTY

Passed House, Date 3-3-71 Passed Senate, Date 5-7-71
Vote: Ayes 88 Nays 2 Vote: Ayes 44 Nays 0
Approved May 17, 1971

A BILL FOR

1 An Act relating to the regulation of aerial application of
2 pesticides and establishing damage and enforcement
3 procedures.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section two hundred six point five (206.5), sub-
2 section one (1), Code 1971, is amended by adding the following
3 new paragraphs:

4 "A person who applies pesticides by use of an aircraft and
5 who is licensed as an aerial commercial applicator in another
6 state may apply pesticides in Iowa under the direct supervi-
7 sion of a person holding a valid Iowa commercial applicator's
8 license. The supervising applicator shall be jointly liable
9 with the person who is licensed as an aerial commercial
10 applicator in another state for damages as provided in section
11 two (2) of this Act. The supervising applicator shall immediate-
12 ly notify the secretary of the commencement and of the termina-
13 tion of service provided by the supervised applicator.

14 A person licensed in another state as an aerial commercial
15 applicator may operate independently if he acquires an aerial
16 commercial applicator license from the secretary and registers
17 with the Iowa aeronautics commission, or if the secretary
18 determines that the state which has licensed him requires
19 substantially the same competence of licensees as does Iowa.
20 Such person shall be liable for damages as provided in section
21 two (2) of this Act."

22 Sec. 2. Chapter two hundred six (206), Code 1971, is amend-
23 ed by adding the following new section:

24 Any person aggrieved as a result of application of pesti-
25 cides by use of an aircraft may file a property damage claim
26 with the secretary within sixty days after the alleged damage
27 occurred. Damage claims alleging bodily injury are not sub-
28 ject to the sixty-day filing limitation. Upon receipt of a
29 damage claim, the secretary shall appoint a three-member claim
30 investigation committee as follows:

31 1. One member shall be appointed from a list of persons
32 trained and experienced in the use and effects of pesticides
33 as recommended by the dean of the college of agriculture at
34 Iowa state university of science and technology.

35 2. One member shall be appointed from a list of experienced,

1 licensed aerial commercial applicators as recommended by the
2 Iowa aeronautics commission.

3 3. One member shall be an attorney admitted to practice
4 law in this state.

5 The claim investigation committee shall conduct an investi-
6 gation of the claim and determine if damage resulted from
7 aerial application. If damage did result, the committee shall
8 assess the amount and direct the supervising applicator or the
9 aerial commercial applicator to pay the damages and the ex-
10 penses of the investigating committee as determined by the
11 secretary. The investigating committee shall report its find-
12 ings to the secretary. If the applicator refuses to pay damages
13 and expenses, the secretary shall suspend the applicator's
14 license. Decisions may be appealed to the district court and
15 the report of the claim investigation committee is admissible
16 as evidence in court. If the claimant is unsuccessful, he
17 shall pay the expenses of the claim investigation committee
18 as determined by the secretary.

19 EXPLANATION

20 This bill provides that an aerial commercial applicator who
21 is licensed in another state may apply pesticides in Iowa under
22 the direct supervision of a commercial applicator licensed in
23 Iowa. However an aerial commercial applicator whose license
24 requirements are substantially the same as required in Iowa
25 may operate independently.

26 A procedure for investigating and settling damage claims
27 resulting from the aerial application of pesticides is also
28 established.

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LSB 249

- 1 Amend House File 39 as follows:
2 1. Page 2, line 7, by inserting after the word "Iowa" the
3 word "aerial".
4 2. Page 2, line 16, by inserting after the word "secretary"
5 the following: "and posts bond in amount to be determin-
6 ed by the secretary,".
7 3. Page 2, line 17, by striking all after the word "com-
8 mission" and all of lines 18 and 19, and inserting in
9 lieu thereof a period.
10 4. Page 2, line 26, by inserting after the word "secretary"
11 the following: "before one-half damaged crop is
12 harvested and".
13 5. Page 3, by striking all of lines 3 and 4 and inserting
14 in lieu thereof the following: "3. One member shall be a
15 person experienced in adjusting crop losses."
16 6. Page 3, by striking all of lines 5 through line 15 and
17 the words "as evidence in court" from line 16, and in-
18 serting in lieu thereof the following: "The claim in-
19 vestigation committee shall conduct its investigation
20 of such claim under the direction of the secretary and
21 report its findings to him. Such report shall be
22 admissible as evidence in any court in this state.
23 If the claimant is successful and is awarded damages,
24 the aerial applicator shall pay the expenses of the
25 investigation committee as determined by the secretary."

Filed - *Adopted 2-19*
February 2, 1971

By COMMITTEE ON AGRICULTURE
STROTHMAN, Chairman

- 1 Amend House File 39, Page 2, line 26, by
2 striking the words "sixty days" and inserting
3 in lieu thereof the words "two years".

Filed - *Withdrawn 3/3*
February 8, 1971

By SMALL of Johnson
District 69

- 1 Amend House File 39, page 3, by adding the follow-
2 ing new section:
3 Sec. 3. The time limitation set forth in
4 section 2 of this Act shall not be applicable to
5 possible damages to agricultural livestock or the
6 products therefrom.

Filed - *Withdrawn 3/3*
February 15, 1971

By PIERSON of Mahaska
District 87
MOFFITT of Appanoose
District 59

HOUSE CLIP SHEET

Monday, February 8, 1971

HOUSE FILE 39

- 1 Amend House File 39 as follows:
- 2 1. Page 2, line 26 by striking the word "secretary"
- 3 and inserting in lieu thereof the words "Chemical
- 4 Technology Review Board".
- 5 2. Page 2, line 29 by striking the word "secretary"
- 6 and inserting in lieu thereof the word "Board".

Filed - *Withdrawn 3/3*
February 5, 1971

By LAWSON of Cerro Gordo
District 17
BLOUIN of Dubuque
District 49

HOUSE FILE 39

- 1 Amend House File 39, page 3, by inserting
- 2 after line 18 the following:
- 3 "A prompt report on all claims made
- 4 under this act and on the results of investi-
- 5 gations carried on will be made by the secretary
- 6 to the chemical technology review board."

Filed - *Withdrawn 3/3*
February 5, 1971

By LAWSON of Cerro Gordo
District 17
BLOUIN of Dubuque
District 49

HOUSE FILE 39

- 1 Amend the Committee on Agriculture amendment to House File
- 2 39, filed February 2, 1971, as follows:
- 3 1. By striking from line 20 the word "secretary" and
- 4 inserting in lieu thereof the words "Chemical Technology
- 5 Review Board".
- 6 2. By striking from line 21 the word "him" and
- 7 inserting in lieu thereof the words "the Board".
- 8 3. By striking from line 25 the word "secretary"
- 9 and inserting in lieu thereof the word "Board".

Filed from the floor, Offered and Deferred.
February 5, 1971 *Withdrawn 2-19*

By BLOUIN of Dubuque
District 49
LAWSON of Cerro Gordo
District 17

1 Amend House File 39, page 3, by adding the
2 following new section:
3 Sec. 3. Notwithstanding the time limitation
4 provisions in Section 2 of this act, damage claims
5 against agricultural livestock or the products
6 therefrom shall be subject to a two-year limitation.

Filed - *Withdrawn 2/3*
February 19, 1971

By PIERSON of Mahaska
District 87

1 Amend House File 39, page 2, line 27, by striking
2 the word "occurred" and inserting in lieu thereof
3 the words "is detected".

Filed - *Withdrawn 2/3*
February 19, 1971

By UBAN of Black Hawk
District 38

1 Amend House File 39 as follows:
2 1. Page 2, by striking in lines 10 and 11 the
3 words "as provided in section two (2) of this
4 Act." and by inserting a period in line 10 after the
5 word "damages".
6 2. Page 2, by striking in lines 20 and 21 the
7 words "as provided in section two (2) of this
8 Act." and by inserting a period in line 20 after
9 the word "damages."
10 3. Page 2, by striking lines 24 through 30 and
11 inserting in lieu thereof the following:
12 "Any person aggrieved as a result of
13 application of pesticides by use of an aircraft
14 may file:
15 (a.) notice of crop damage with the secretary
16 before one-half of the damaged crop is
17 harvested and within sixty days after the
18 alleged damage is detected; and
19 (b.) notice of damage to agricultural livestock
20 or the products therefrom within two years
21 after the alleged damage is detected.
22 "Failure to give notice shall not preclude
23 recovery in an action for damages and shall not
24 affect the limitations of actions set forth in
25 chapter 614 of the Code. Nothing herein shall
26 prohibit an action for damages for bodily injury
27 or death to any person. Upon request of a notice
28 as herein provided, the secretary shall appoint a
29 three-member claim investigation committee as
30 follows:"

Filed - *Adopted 2/3*
February 23, 1971

By PIERSON of Mahaska, District 87
HILL of Polk, District 62
KNOKE of Pottawattamie, District 79
WAUGH of Monona, District 27
MIDDLESWART of Warren, District 93