

SENATE FILE 1311

FILED MAR 19 1974

By COMMITTEE ON AGRICULTURE
(Committee on Agriculture)

S.S. for H.F. 1459

Passed Senate, Date 4-1-74 (1113) Passed House, Date 4-17-74 (1829)
Vote: Ayes 30 Nays 6 Vote: Ayes 87 Nays 5
Approved May 2, 1974

A BILL FOR

1 An Act relating to the use and application of pesticides and
2 providing penalties for violations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S—2625

- 1 Amend Senate File 1311 as follows:
2 1. Page 5, line 27, delete the period and insert
3 the following:
4 "or being under the direct supervision of a
5 certified applicator."
6 2. Page 9, line 4, delete the period and insert
7 the following:
8 "or being under the direct supervision of a
9 certified applicator."
10 3. Page 9, line 29 after "fee" insert the
11 following:
12 "for the primary business location and an addi-
13 tional five dollar annual license fee for each
14 other location or outlet within the state,"

S—2625 Filed and adopted
April 1, 1974

By BERGMAN

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1 Section 1. Section two hundred six point two (206.2),
2 subsection four (4), Code 1973, is amended to read as fol-
3 lows:

4 4. The term "ingredient statement" means either:

5 a. A statement of the name and percentage by weight of
6 each pesticide active ingredient, together with the total
7 percentage of the inert ingredients, in the pesticide; and

8 ~~b. With respect to pesticides for household uses, not~~
9 ~~highly toxic to man, a statement of the name of each active~~
10 ~~ingredient in descending order of predominance and total per-~~
11 ~~cent of inert ingredients.~~

12 e b. In case When the pesticide contains arsenic in any
13 form, a the ingredient statement ~~of the~~ shall also include
14 percentages by weight of total and water soluble arsenic,
15 each calculated as elemental arsenic.

16 Sec. 2. Section two hundred six point two (206.2), Code
17 1973, is amended by adding the following new subsections:

18 NEW SUBSECTION. "Certified applicator" means any indi-
19 vidual who is certified under this chapter as authorized to
20 use or supervise the use of any pesticide which is classified
21 for restricted use.

22 NEW SUBSECTION. "Certified private applicator" means a
23 certified applicator who uses or supervises the use of any
24 pesticide which is classified for restricted use for purposes
25 of producing any agricultural commodity on property owned
26 or rented by him or his employer or, if applied without com-
27 pensation other than trading of personal services between
28 producers of agricultural commodities, on the property of
29 another person.

30 NEW SUBSECTION. "Certified commercial applicator" means
31 a pesticide applicator or individual who applies or uses a
32 restricted use pesticide or device for the purpose of pro-
33 ducing any agricultural commodity or on any property of an-
34 other for compensation.

35 NEW SUBSECTION. "Public applicator" means an individual who

1 applies pesticides as an employee of a state agency, county,
2 municipal corporation, or other governmental agency. This
3 term does not include employees who work only under the di-
4 rect supervision of a public applicator.

5 NEW SUBSECTION. The term "distribute" means to offer for
6 sale, hold for sale, sell, barter, or supply pesticides in
7 this state.

8 NEW SUBSECTION. The term "hazard" means a probability
9 that a given pesticide will have an adverse effect on man
10 or the environment in a given situation, the relative like-
11 lihood of danger or ill effect being dependent on a number
12 of interrelated factors present at any given time.

13 NEW SUBSECTION. The term "permit" means a written cer-
14 tificate, issued by the secretary or his authorized agent
15 as authorized in rules adopted by the chemical technology
16 commission authorizing the use of certain state restricted
17 use pesticides.

18 NEW SUBSECTION. The term "pesticide dealer" means any
19 person who distributes any restricted use pesticides which,
20 by regulation, are restricted to application only by certi-
21 fied applicators.

22 NEW SUBSECTION. The term "restricted use pesticide" means
23 any pesticide as determined by rule of the secretary, when
24 applied in accordance with its directions for use, warnings,
25 and cautions and for the uses for which it is registered or
26 in accordance with commonly recognized practice, which may
27 generally cause without additional regulatory restrictions,
28 unreasonable adverse effects on the environment including
29 injury to the applicator.

30 NEW SUBSECTION. The term "state restricted use pesti-
31 cide" means any pesticide which is restricted for sale,
32 use, or distribution under the authority of section four
33 hundred fifty-five B point one hundred one (455B.101) of
34 the Code.

35 NEW SUBSECTION. The term "under the direct supervision

1 of" means the act or process whereby the application of a
2 pesticide is made by a competent person acting under the in-
3 structions and control of a certified applicator or a state
4 licensed commercial applicator who is available if and when
5 needed, even though such certified applicator is not physi-
6 cally present at the time and place the pesticide is applied.

7 NEW SUBSECTION. The term "unreasonable adverse effects
8 on the environment" means any unreasonable risk to man or
9 the environment, taking into account the economic, social
10 and environmental costs and benefits of the use of any pesti-
11 cide.

12 Sec. 3. Section two hundred six point seven (206.7), Code
13 1973, is amended to read as follows:

14 206.7 EXAMINATION AND ORDERS. The examination of pesti-
15 cides and those products to which pesticides have been ap-
16 plied for the content of pesticide residues shall be made
17 under the direction of the secretary, or his authorized rep-
18 resentative, for the purpose of determining whether they com-
19 ply with the requirements of this chapter and rules and regu-
20 lations adopted under this chapter. If it shall appear from
21 such examination that a pesticide fails to comply with the
22 provisions of this chapter, and the secretary, or his autho-
23 rized representative, contemplates instituting criminal pro-
24 ceedings against any person, he shall cause notice to be given
25 to such person. Any person so notified shall be given an
26 opportunity to present his views, either orally or in writ-
27 ing, with regard to such contemplated proceedings and if
28 thereafter in the opinion of the secretary, or his authorized
29 representative, it shall appear that the provisions of the
30 chapter have been violated by such person, then the secre-
31 tary or his authorized representative may refer the facts
32 to the county attorney for the county in which the viola-
33 tion shall have occurred with a copy of the results of the
34 analysis or the examination of such article; provided, how-
35 ever, that nothing in this chapter shall be construed as

1 requiring the secretary or his representative to report for
2 prosecution or for the institution of proceedings in minor
3 violations of the chapter whenever he believes that the pub-
4 lic interests will be best served by a suitable notice of
5 warning in writing.

6 Sec. 4. Chapter two hundred six (206), Code 1973, is
7 amended by adding the following new section:

8 NEW SECTION. CLASSIFICATION OF LICENSES.

9 1. The secretary may classify or subclassify certifica-
10 tions or licenses to be issued under this chapter. Each
11 classification shall be subject to separate testing procedures
12 and requirements. However, no person shall be required to
13 pay an additional license fee if such person desires to be
14 licensed in one or all of the license classifications provided
15 for by the secretary under the authority of this section.

16 2. The secretary in promulgating regulations under this
17 chapter shall prescribe standards for the certification of
18 applicators of pesticides. In determining these standards
19 the secretary shall take into consideration standards of the
20 United States environmental protection agency and is autho-
21 rized to adopt by regulation these standards.

22 Sec. 5. Chapter two hundred six (206), Code 1973, is amended
23 by adding the following new section:

24 NEW SECTION. CERTIFICATION REQUIREMENTS. No person shall
25 apply any restricted use pesticide without first complying
26 with the certification requirements of this chapter and such
27 other restrictions as determined by the secretary.

28 The secretary shall adopt, by rule, requirements for the
29 examination, reexamination and certification of applicants
30 and set a fee of not more than ten dollars for the certifi-
31 cation program of commercial applicators and not more than
32 five dollars for the certification program of private appli-
33 cators.

34 The secretary may adopt rules for the training of appli-
35 cators in cooperation with the cooperative extension service

1 at Iowa state university of science and technology.

2 Sec. 6. Section two hundred six point five (206.5), Code
3 1973, is amended by striking the section and inserting in
4 lieu thereof the following:

5 206.5 LICENSE FOR COMMERCIAL APPLICATORS.

6 1. COMMERCIAL APPLICATOR. No person shall engage in the
7 business of applying pesticides to the lands or property of
8 another at any time without being licensed by the secretary.
9 The secretary shall require an annual license fee of not more
10 than twenty-five dollars for each license. Application for
11 a license shall be made in writing to the department on a
12 designated form obtained from the department. Each appli-
13 cation for a license shall contain information regarding the
14 applicant's qualifications and proposed operations, license
15 classification or classifications for which the applicant
16 is applying.

17 A person who applies pesticides by use of any aircraft
18 and who is licensed as an aerial commercial applicator in
19 another state shall apply pesticides in Iowa under the di-
20 rect supervision of a person holding a valid Iowa aerial
21 commercial applicator's license. The supervising aerial
22 commercial applicator shall be jointly liable with the per-
23 son who is licensed as an aerial commercial applicator in
24 another state for damages. The supervising applicator shall
25 immediately notify the secretary of the commencement and of
26 the termination of service provided by the supervised appli-
27 cator. A person licensed in another state as an aerial com-
28 mercial applicator may operate independently if he acquires
29 an aerial commercial applicator license from the secretary
30 and posts bond in amount to be determined by the secretary,
31 and registers with the Iowa aeronautics commission. Such
32 person shall be liable for damages.

33 2. NONRESIDENT APPLICATOR. Any nonresident applying for
34 a license under this chapter to operate in the state shall
35 file a written power of attorney designating the secretary

1 of state as the agent of such nonresident upon whom service
2 of process may be had in the event of any suit against said
3 nonresident person, and such power of attorney shall be so
4 prepared and in such form as to render effective the juris-
5 diction of the courts of this state over such nonresident
6 applicants. A nonresident who has a duly appointed resident
7 agent upon whom process may be served as provided by law shall
8 not be required to designate the secretary of state as such
9 agent. The secretary of state shall be allowed such fees
10 as provided by law for designating resident agents. The sec-
11 retary shall be furnished with a copy of such designation
12 of the secretary of state or of a resident agent, such copy
13 to be certified by the secretary of state.

14 3. EXAMINATION FOR COMMERCIAL APPLICATOR LICENSE. The
15 secretary shall not issue a commercial applicator license
16 until the individual engaged in or managing the pesticide
17 application business is qualified by passing an examination
18 to demonstrate to the secretary his knowledge of how to ap-
19 ply pesticides under the classifications he has applied for,
20 and his knowledge of the nature and effect of pesticides he
21 may apply under such classifications. The applicant success-
22 fully completing this examination requirement shall be a
23 certified commercial applicator.

24 4. RENEWAL OF APPLICANTS LICENSE. The secretary shall
25 renew any applicant's license under the classifications for
26 which such applicant is licensed, subject to reexamination
27 for additional knowledge that may be required to apply pesti-
28 cides.

29 5. ISSUE COMMERCIAL APPLICATOR LICENSE. If the secretary
30 finds the applicant qualified to apply pesticides in the clas-
31 sifications for which he has applied and if the applicant
32 files the bonds or insurance required under section thirteen
33 (13) of this Act, and if the applicant applying for a li-
34 cense to engage in aerial application of pesticides has met
35 all of the requirements of the federal aviation administra-

1 tion, the Iowa aeronautics commission and any other applicable
2 federal or state laws or regulations to operate the equipment
3 described in the application, the secretary shall issue a
4 commercial applicator license limited to the classifications
5 for which he is qualified, which shall expire at the end of
6 the calendar year of issue unless it has been revoked or sus-
7 pended prior thereto by the secretary for cause. The sec-
8 retary may limit the license of the applicant to the use of
9 certain pesticides, or to certain areas, or to certain types
10 of equipment if the applicant is only so qualified. If a
11 license is not issued as applied for, the secretary shall
12 inform the applicant in writing of the reasons therefor.

13 6. PUBLIC APPLICATOR.

14 a. All state agencies, counties, municipal corporations,
15 and any other governmental agency shall be subject to the
16 provisions of this chapter and rules adopted thereunder con-
17 cerning the application of pesticides.

18 b. Public applicators for agencies listed in this sub-
19 section shall be subject to examinations as provided for in
20 this section, however, the secretary shall issue a limited
21 license without a fee to such public applicator who has quali-
22 fied for such license. The public applicator license shall
23 be valid only when such applicator is acting as an applicator
24 applying or supervising the application of pesticides used
25 by such entities. Government research personnel shall be
26 exempt from this licensing requirement when applying pesti-
27 cides only to experimental plots. Individuals licensed pur-
28 suant to this section shall be deemed as certified applica-
29 tors.

30 c. Such agencies and municipal corporations shall be sub-
31 ject to legal recourse by any person damaged by such appli-
32 cation of any pesticide, and such action may be brought in
33 the county where the damage or some part thereof occurred.

34 Sec. 7. Chapter two hundred six (206), Code 1973, is
35 amended by adding the following new section:

1 NEW SECTION. PRIVATE APPLICATORS.

2 1. REQUIREMENT FOR CERTIFICATION. No private applicator
3 shall apply any restricted use pesticide without first com-
4 plying with the certification standards.

5 2. CERTIFICATION STANDARDS. Certification standards shall
6 be adopted by the secretary to determine the individual's
7 competence with respect to the application and handling of
8 the restricted use pesticides. In determining these stan-
9 dards, the secretary shall take into consideration the stan-
10 dards of the United States environmental protection agency.

11 3. REASONS FOR NOT QUALIFYING. If the secretary does
12 not qualify the private applicator under this section he shall
13 inform the applicant in writing of the reasons therefor.

14 Sec. 8. Chapter two hundred six (206), Code 1973, is
15 amended by adding the following new section:

16 NEW SECTION. PESTICIDE DEALER LICENSE.

17 1. It shall be unlawful for any person to act in the ca-
18 pacity of a pesticide dealer, or advertise as, or assume to
19 act as a pesticide dealer at any time without first having
20 obtained a license from the secretary which shall expire at
21 the end of the calendar year of issue. A license shall be
22 required for each location or outlet located within this state
23 from which such pesticides are distributed. Any manufacturer,
24 registrant, or distributor who has no pesticide dealer outlet
25 licensed within this state and who distributes such pesticides
26 directly into this state shall obtain a pesticide dealer li-
27 cense for his principal out-of-state location or outlet.

28 2. Application for a license shall be accompanied by a
29 twenty-five dollar annual license fee and shall be on a form
30 prescribed by the secretary and shall include the full name
31 of the person applying for such license.

32 3. Provisions of this section shall not apply to a pes-
33 ticide applicator who sells pesticides only as an integral
34 part of his pesticide application service when such pesti-
35 cides are dispensed only through his equipment used for such

1 pesticide application; or any federal, state, county, or mu-
2 nicipal agency which provides pesticides only for its own
3 programs.

4 Sec. 9. Section two hundred six point eleven (206.11),
5 Code 1973, is amended by striking the section and inserting
6 in lieu thereof the following:

7 206.11 COOPERATIVE AGREEMENTS. The secretary may co-
8 operate, receive grants-in-aid, and enter into agreements
9 with any agency of the federal government, of this state or
10 its subdivisions, or with any agency of another state, or trade
11 associations to obtain assistance in the implementation of
12 this chapter and to:

13 1. Secure uniformity of regulations;

14 2. Cooperate in the enforcement of the federal pesticide
15 control laws through the use of state or federal personnel
16 and facilities and to implement cooperative enforcement pro-
17 grams;

18 3. Develop and administer state programs for training
19 and certification of certified applicators consistent with
20 federal standards;

21 4. Contract for training with other agencies including
22 federal agencies for the purpose of training certified ap-
23 plicators;

24 5. Contract for monitoring pesticides for the national
25 plan;

26 6. Prepare and submit state plans to meet federal cer-
27 tification standards; and,

28 7. Regulate certified applicators.

29 Sec. 10. Chapter two hundred six (206), Code 1973, is
30 amended by adding the following new section:

31 NEW SECTION. LICENSE RENEWALS--DELINQUENT FEE. If the
32 application for renewal of any license provided for in this
33 chapter is not filed prior to the first of January in any
34 year, a delinquent fee of twenty-five percent shall be as-
35 sessed and added to the original fee and shall be paid by

1 the applicant before the renewal license shall be issued.
2 A delinquent fee shall not apply if the applicant furnishes
3 an affidavit certifying that he has not applied pesticides
4 after the expiration of his license. All licenses issued
5 under this chapter shall expire December thirty-first each
6 year.

7 Sec. 11. Section two hundred six point three (206.3),
8 Code 1973, is amended by adding the following new subsec-
9 tions:

10 NEW SUBSECTION. It shall be unlawful:

11 a. To distribute any restricted use pesticide to any per-
12 son who is required by law or regulations promulgated under
13 such law to be certified to use or purchase such restricted
14 pesticides unless such person or his agent, to whom distribu-
15 tion is made, is certified to use or purchase such restricted
16 pesticide. Subject to conditions established by the secretary
17 such certification may be obtained immediately prior to dis-
18 tribution from any person designated by the secretary.

19 b. For any person to use or cause to be used any pesti-
20 cide contrary to its labeling or to regulations of the state
21 of Iowa if those regulations differ from or further restrict
22 the usage.

23 c. For any person to handle, transport, store, display,
24 or distribute pesticides in such a manner as to endanger man
25 and his environment or to endanger food, feed, or any other
26 products that may be transported, stored, displayed, or dis-
27 tributed with such pesticides.

28 d. For any person to dispose of, discard, or store any
29 pesticides or pesticide containers in such a manner as to
30 cause injury to humans, vegetation, crops, livestock, wild-
31 life, pollinating insects or to pollute any water supply or
32 waterway.

33 NEW SUBSECTION. The secretary may suspend an applica-
34 tor's license pending inquiry, and, after opportunity for a
35 hearing, to be held within ten days, may deny, suspend, re-

1 voke or modify any provision of any license, permit or cer-
2 tification issued under this Act, if he finds that the ap-
3 plicant or the holder of a license, permit or certification
4 has committed any of the following acts, each of which is
5 declared to be a violation of this Act. However, any li-
6 censed or unlicensed person shall be subject to the penal-
7 ties provided for by section two hundred six point nine (206.9)
8 of the Code.

9 a. Made a pesticide recommendation or application incon-
10 sistent with the labeling.

11 b. Applied known ineffective or improper materials.

12 c. Operated faulty or unsafe equipment.

13 d. Operated in a faulty, careless or negligent manner.

14 e. Neglected or, after notice, refused to comply with
15 the provisions of this chapter, the rules adopted hereunder,
16 or of any lawful order of the secretary.

17 f. Refused or neglected to keep and maintain the records
18 required by this chapter, or to make reports when and as
19 required.

20 g. Made false or fraudulent records, invoice or reports.

21 h. Refused or neglected to comply with any limitations
22 or restrictions on or in a duly issued license, permit or
23 certification.

24 i. Aided or abetted a licensed or an unlicensed person
25 to evade the provisions of this chapter, conspired with such
26 a licensed or an unlicensed person to evade the provisions
27 of this chapter, or allowed one's license, permit, or cer-
28 tification to be used by another person.

29 j. Made false or misleading statements during or after
30 an inspection concerning any infestation or infection of pests
31 found on land.

32 k. Impersonated any federal, state, county or city in-
33 spector or official.

34 Sec. 12. Section two hundred six point four (206.4),
35 subsections one (1) and three (3), Code 1973, are amended

1 to read as follows:

2 1. Every pesticide which is distributed, sold or offered
3 for sale within this state or delivered for transportation
4 or transported in intrastate commerce between points within
5 the state through any point outside this state shall be regis-
6 tered with the department of agriculture. All registration
7 of products shall expire on the thirty-first day of ~~October~~
8 December following date of issuance, unless such registra-
9 tion shall be renewed annually, in which event expiration
10 date shall be extended for each year of renewal registration,
11 or until otherwise terminated; provided that:

12 a. ~~Products which have the same formula, and are manu-~~
13 ~~factured by the same person, the labeling of which contains~~
14 ~~the same claims, and the labels of which bear a designation~~
15 ~~identifying the product as the same pesticide may be regis-~~
16 ~~tered as a single pesticide, additional names and labels shall~~
17 ~~be added by supplement statements during the current period~~
18 ~~of registration.~~ For the purpose of this chapter, fertil-
19 izers in mixed fertilizer-pesticide formulations shall be
20 considered as inert ingredients.

21 b. Within the discretion of the secretary, or his autho-
22 rized representative, a change in the labeling or formulae
23 of a pesticide may be made within the current period of reg-
24 istration, without requiring a reregistration of the product,
25 provided the name of the item is not changed.

26 3. The registrant, before selling or offering for sale
27 any pesticide in this state, shall register each brand and
28 grade of such pesticide with the secretary upon forms fur-
29 nished by the secretary, and, for the purpose of defraying
30 expenses connected with the enforcement of this chapter, ~~shall~~
31 ~~pay to~~ the secretary an annual ~~shall set the~~ registration
32 ~~fee of ten~~ annually at no more than twenty dollars for each
33 and every brand and grade to be offered for sale in this state
34 ~~up to ten products. A fee of five dollars shall be paid for~~
35 ~~each product thereafter.~~ The fees collected shall be de-

1 posited in the treasury to the credit of the pesticide fund
2 to be used only for the purpose of enforcing the provisions
3 of this chapter. ~~All moneys in said fund in excess of one~~
4 ~~hundred thousand dollars shall be placed in the general fund~~
5 ~~of the state at the end of each biennium.~~

6 Sec. 13. Chapter two hundred six (206), Code 1973, is
7 amended by adding the following new section:

8 NEW SECTION. SURETY BOND OR INSURANCE REQUIRED OF COM-
9 MERCIAL APPLICATOR. The secretary shall not issue a commer-
10 cial applicator's license as required in section six (6) of
11 this Act until the applicant has furnished evidence of fi-
12 nancial responsibility with the secretary consisting either
13 of a surety bond or a liability insurance policy or certi-
14 fication thereof protecting persons who may suffer legal
15 damages as a result of the pesticide operations of the ap-
16 plicant. The surety bond or liability insurance policy sub-
17 mitted as evidence of financial responsibility need not ap-
18 ply to damages or injury to agricultural crops, plants, or
19 land being worked upon by the applicant.

20 The amount of the surety bond or liability insurance as
21 provided for in this section shall be not less than fifty
22 thousand dollars for property damage and public liability,
23 insurance, each separately, and including loss or damage
24 arising out of the actual use of any pesticide. Such surety
25 bond or liability insurance shall be maintained at not less
26 than that sum at all times during the licensed period. The
27 secretary shall be notified ten days prior to any reduction
28 at the request of the applicant or cancellation of such surety
29 bond or liability insurance by the surety or insurer. The
30 total and aggregate of the surety and insurer for all claims
31 shall be limited to the face of the bond or liability insur-
32 ance policy. The secretary may accept a liability insurance
33 policy or surety bond in the proper sum which has a deducti-
34 ble clause in an amount not exceeding five hundred dollars
35 for aerial applicators and two hundred fifty dollars for all

1 other applicators for the total amount of liability insurance
2 or surety bond required.

3 Sec. 14. Section two hundred six point thirteen (206.13),
4 Code 1973, is amended by striking the section and inserting
5 in lieu thereof the following:

6 206.13 REPORTS OF PESTICIDE ACCIDENTS, INCIDENTS, OR LOSS.

7 1. The secretary may by regulation require the report-
8 ing of significant pesticide accidents or incidents to a
9 designated state agency.

10 2. Any person claiming damages from a pesticide appli-
11 cation shall have filed with the secretary on a form pre-
12 scribed by the secretary a written statement claiming that
13 he has been damaged.

14 a. This report shall have been filed within sixty days
15 after the alleged date that damages occurred. If a growing
16 crop is alleged to have been damaged, the report must be filed
17 prior to the time that twenty-five percent of the crop has
18 been harvested. Such statement shall contain, but shall not
19 be limited to the name of the person allegedly responsible
20 for the application of said pesticide, the name of the owner
21 or lessee of the land on which the crop is grown and for which
22 damage is alleged to have occurred, and the date on which
23 the alleged damage occurred.

24 b. The secretary shall prepare a form to be furnished
25 to persons to be used in such cases and such form shall contain
26 such other requirements as the secretary may deem proper.
27 The secretary shall, upon receipt of such statement, notify
28 the licensee and the owner or lessee of the land or other
29 person who may be charged with the responsibility of the
30 damages claimed, and furnish copies of such statements as
31 may be requested. The secretary shall inspect damages when-
32 ever possible and when he determines that the complaint has
33 sufficient merit he shall make such information available
34 to the person claiming damage and to the person who is al-
35 leged to have caused the damage.

1 3. The filing of such a report or failure to give notice
2 shall not preclude recovery in an action for damages and shall
3 not affect the limitations of actions set forth in chapter
4 six hundred fourteen (614) of the Code. Nothing herein shall
5 prohibit an action for damages for bodily injury or death
6 to any person.

7 a. The filing of such report or the failure to file such
8 a report shall not be a violation of this chapter. However,
9 if the person failing to file such report is the only one
10 injured from such use or application of a pesticide by others,
11 the secretary may, when in the public interest, refuse to
12 hold a hearing for the denial, suspension or revocation of
13 a license or permit issued under this chapter until such re-
14 port is filed.

15 b. Where damage is alleged to have occurred, the claim-
16 ant shall permit the secretary, the licensee and his repre-
17 sentatives, such as bondsman or insurer, to observe within
18 reasonable hours the lands or nontarget organism alleged to
19 have been damaged in order that such damage may be examined.
20 Failure of the claimant to permit such observation and ex-
21 amination of the damaged lands shall automatically bar the
22 claim against the licensee.

23 Sec. 15. Chapter two hundred six (206), Code 1973, is
24 amended by adding the following new section:

25 NEW SECTION. LICENSEE TO KEEP RECORDS. The secretary
26 shall require commercial applicators and certified commer-
27 cial applicators to maintain records with respect to appli-
28 cation of pesticides. Such relevant information as the sec-
29 retary may deem necessary may be specified by regulation.
30 Such records shall be kept for a period of three years from
31 the date of the application of the pesticide to which such
32 records refer, and the secretary shall, upon request in writ-
33 ing, be furnished with a copy of such records forthwith.

34 Sec. 16. Section two hundred six point ten (206.10), Code
35 1973, is amended by adding the following new subsection:

1 NEW SUBSECTION. When the secretary has reasonable cause
2 to believe a pesticide or device is being distributed, stored,
3 transported, or used in violation of any of the provisions
4 of this chapter, or of any of the prescribed regulations un-
5 der this chapter, he may issue and serve a written "stop sale,
6 use, or removal" order upon the owner or custodian of any
7 such pesticide or device. If the owner or custodian is not
8 available for service of the order upon him, the secretary
9 may attach the order to the pesticide or device and notify
10 the registrant. The pesticide or device shall not be sold,
11 used, or removed until the provisions of this chapter have
12 been complied with and the pesticide or device has been re-
13 leased in writing under conditions specified by the secre-
14 tary or the violation has been otherwise disposed of as pro-
15 vided in this chapter by a court of competent jurisdiction.

16 Sec. 17. Chapter two hundred six (206), Code 1973, is
17 amended by adding the following new section:

18 NEW SECTION. RECIPROCAL AGREEMENT. The secretary may
19 waive all or part of the examination requirements provided
20 for in sections six (6) and seven (7) of this Act on a re-
21 ciprocal basis with any other state which has substantially
22 the same standards.

23 Sec. 18. Section two hundred six point eight (206.8),
24 Code 1973, is amended by adding the following new subsec-
25 tions:

26 NEW SUBSECTION. The provisions of section six (6) of this
27 Act relating to licenses and requirements for their issuance
28 shall not apply to any farmer applying pesticides for himself
29 or with ground equipment or manually for his farmer neighbors;
30 provided, that:

31 a. He operates farm property and operates and maintains
32 pesticide application equipment primarily for his own use;

33 b. He is not regularly engaged in the business of ap-
34 plying pesticides for hire amounting to a principal or regu-
35 lar occupation and that he shall not publicly hold himself

1 out as a pesticide applicator;

2 c. He operates his pesticide application equipment only
3 in the vicinity of his own property and for the accommodation
4 of his neighbors.

5 NEW SUBSECTION. The licensing requirements of section
6 six (6) of this Act shall not apply to any person using hand-
7 powered equipment to applying pesticides to lawns, or to orna-
8 mental shrubs and trees not in excess of twelve feet high,
9 as an incidental part of taking care of household lawns and
10 yards provided, that such person shall not publicly hold him-
11 self out as being in the business of applying pesticides,
12 and that such person does not apply restricted use pesticides
13 or state restricted use pesticides, restricted to use only
14 by certified applicators.

15 NEW SUBSECTION. The provisions of section six (6) of this
16 Act relating to licenses and requirements for their issuance
17 shall not apply to a doctor of veterinary medicine applying
18 pesticides to animals during the normal course of his
19 veterinary practice; provided that he is not regularly engaged
20 in the business of applying pesticides for hire amounting
21 to a principal or regular occupation or does not publicly
22 hold himself out as a pesticide applicator; and that he does
23 not apply restricted use pesticides, or state restricted use
24 pesticides, restricted to use by certified applicators only.

25 Sec. 19. Section two hundred six point twelve (206.12),
26 Code 1973, is amended to read as follows:

27 206.12 RULES ADOPTED. The rules and regulations promul-
28 gated under the provisions of this chapter shall not be ef-
29 fective until approved by the chemical technology ~~review-board~~
30 commission of the department of environmental quality and
31 submitted to the departmental rules review committee as pro-
32 vided in chapter 17A.

33 Sec. 20. Chapter two hundred six (206), Code 1973, is
34 amended by adding the following new section:

35 NEW SECTION. RESTRICTED USE PESTICIDES CLASSIFIED. The

1 secretary shall determine, by rule, the pesticides to be
2 classified as restricted use pesticides. In making such de-
3 termination, the secretary shall consider any official re-
4 ports, academic studies, expert opinions or testimony, the
5 toxicity and hazard of the pesticide to the environment in-
6 cluding the applicator, the pesticides classified as restricted
7 use pesticides by the United States environmental protection
8 agency, or other matter deemed to have probative value. Any
9 such evidence shall be received at a public hearing held for
10 such purpose.

11 Sec. 21. This Act shall become effective January 1, 1975.
12 However, certification for applicators of restricted use
13 pesticides shall not be required until October 21, 1976.

14 EXPLANATION

15 These proposed amendments to the Iowa Pesticide Act amends
16 most sections of chapter 206. The proposed amendments are
17 intended to expand the state's regulatory authority over the
18 use and application of pesticides and the registration of
19 pesticide products. At present, the state's basic approach
20 to pesticide control is through the correct and approved la-
21 beling of the pesticide products. Under this Act, persons
22 responsible for applying pesticides are to be instructed in
23 the proper use of the chemicals and he must submit to a cer-
24 tification program administered by the state.

25 The federal environmental pesticide control Act was re-
26 vised and enacted on October 21, 1972 and it requires that
27 all uses for pesticide chemicals be classified either for
28 general use or restricted use. Any person applying restricted
29 use pesticides must be certified as competent. This require-
30 ment applies both to commercial applicator and private ap-
31 plicators. This Act will authorize the department of agri-
32 culture to assume the responsibility for regulating pesti-
33 cide use as a cooperative federal-state function.

34
35

S-2562

1 Amend Senate File 1311 as follows:
2 1. Page 3, strike line 22 through line 29 and
3 insert in lieu thereof the following:
4 NEW SUBSECTION. The term "restricted use
5 pesticide" means any pesticide restricted as to
6 use by rule of the secretary as adopted under
7 section twenty (20) of this act.
8 2. Page 19, strike line 2 through line 10 and
9 insert in lieu thereof the following:
10 "classified as restricted use pesticides. In
11 determining these rules the secretary shall take
12 into consideration the pesticides classified as
13 restricted use by the United States environmental
14 protection agency and is authorized to adopt by
15 rule these classifications."

S-2562 Filed - *Withdrawn 4/1*
March 21, 1974

By TIEDEN

S-2620

1 Amend Senate File 1311 as follows:
2 1. Page 3, strike line 22 through line 29 and
3 insert in lieu thereof the following:
4 NEW SUBSECTION. The term "restricted use pesti-
5 cide" means any pesticide restricted as to use by
6 rule of the secretary as adopted under section
7 twenty (20) of this Act.
8 2. Page 7, line 23, strike "certified" and insert
9 in lieu thereof "licensed".
10 3. Page 8, line 28, strike "deemed as certified"
11 and insert in lieu thereof "licensed public".
12 4. Page 9, line 1, strike "PRIVATE" and insert in
13 lieu thereof "CERTIFIED".
14 5. Page 9, line 2, insert after "private" the
15 following: "commercial or public".
16 6. Page 9, line 12, strike "private".
17 7. Page 19, strike line 2 through line 10 and
18 insert in lieu thereof the following:
19 "classified as restricted use pesticides. In
20 determining these rules the secretary shall take into
21 consideration the pesticides classified as restricted
22 use by the United States environmental protection
23 agency and is authorized to adopt by reference these
24 classifications."
25 8. Page 19, line 13, insert after the period

Page 2

1 the following:
2 "Notwithstanding any of the provisions of chapter
3 two hundred and six (206) of the Code, all licenses
4 and product registrations that expire after June 30,
5 1974, and before December 31, 1974, shall remain
6 in full force and effect and be deemed a current
7 license or product registration during the period
8 between July 1, 1974 and December 31, 1974. All
9 licenses and product registrations so extended shall
10 expire on December 31, 1974."

S-2620 Filed - *Adopted 4/1*
March 29, 1974

By BERGMAN and TIEDEN