

House File 398 - Introduced

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BY WESSEL-KROESCHELL

A BILL FOR

1 An Act relating to incidents involving pesticide drift,
2 including by providing for reporting and testing, and making
3 appropriations.

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

1 Section 1. Section 206.2, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 11A. "*Drift*" means the movement of a
4 pesticide during or immediately after application through air
5 to a site other than the intended site of application.

6 Sec. 2. Section 206.14, subsection 2, unnumbered paragraph
7 1, Code 2015, is amended to read as follows:

8 Any person claiming damages from a pesticide application,
9 including an incident involving drift, shall have filed file
10 with the secretary on a form prescribed by the secretary a
11 written statement claiming that the person has been damaged by
12 the application. The secretary shall allow such forms to be
13 completed and filed via the department's internet site.

14 Sec. 3. Section 206.19, subsection 5, Code 2015, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. c. For damages caused by drift as provided
17 in section 206.14, the amount of civil damages collected by the
18 department is appropriated to the department to perform tests
19 analyzing the possible presence of pesticides as reported by a
20 person alleging damages as provided in section 206.14.

21 Sec. 4. PESTICIDE DRIFT — APPROPRIATION. There is
22 appropriated from the general fund of the state to the
23 department of agriculture and land stewardship for the fiscal
24 year beginning July 1, 2015, and ending June 30, 2016, the
25 following amount, or so much thereof as is necessary, to be
26 used for the purposes designated:

27 1. For purposes of assisting persons alleging damages
28 caused by pesticide drift as provided in chapter 206:
29 \$ 325,000

30 2. a. Of the amount appropriated in subsection 1, up to
31 \$125,000 shall be used by the department to improve or expand
32 its internet site in order to allow a person to electronically
33 file a statement alleging damages as provided in section
34 206.14, as amended in this Act.

35 b. Of the amount appropriated in subsection 1, up to

1 \$200,000 shall be used by the department to decrease the time
2 that persons filing statements alleging damages under section
3 206.14, as amended in this Act, must wait to obtain the results
4 from tests analyzing the possible presence of the pesticides.

5 (1) A person alleging damages must receive the results of
6 the test within twenty-one days from the first date that the
7 department could begin testing.

8 (2) The department shall determine whether a test is best
9 conducted at the department's Iowa laboratory facility or
10 another laboratory, including a private laboratory.

11 3. Notwithstanding section 8.33, moneys appropriated in
12 this section that remain unencumbered or unobligated at the
13 close of the fiscal year shall not revert but shall remain
14 available for expenditure for the purposes designated until the
15 close of the succeeding fiscal year.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 GENERAL. This bill amends the "Pesticide Act of Iowa"
20 (Code chapter 206) by providing for incidents involving
21 "drift", which is defined to mean the movement of a pesticide
22 either during or after its application (usually to land or
23 crops) through the air to another site. The provisions are
24 administered and enforced by the department of agriculture and
25 land stewardship (DALs).

26 REPORTING. The bill amends a provision which allows a person
27 to file a claim for damages from a pesticide application with
28 DALs by allowing a person to complete and file the report form
29 via the internet.

30 APPROPRIATIONS — GENERAL FUND. The bill appropriates
31 moneys to DALs from the general fund of the state for purposes
32 of assisting persons alleging damages caused by drift,
33 including by improving or expanding DALs' internet site and
34 by reducing the wait period for a person alleging damages to
35 receive the results of a test conducted by DALs. The bill also

1 allows DALs to have such tests conducted by another laboratory,
2 including a private laboratory. The appropriations revert at
3 the close of FY 2016-2017.

4 APPROPRIATIONS — CIVIL PENALTIES. The bill also provides
5 that civil damages collected by DALs from violations involving
6 drift by commercial applicators are appropriated to DALs for
7 purposes of conducting the tests.

8 BACKGROUND. A pesticide is any substance used to prevent,
9 destroy, repel, or mitigate damages caused by insects, rodents,
10 nematodes, fungi, weeds, or other forms of plant or animal life
11 or viruses; and includes any substance used as a plant growth
12 regulator, defoliant, or desiccant (Code section 206.2). A
13 person claiming damages from a pesticide application must file
14 a report with DALs, which then may conduct an investigation of
15 the matter (Code section 206.14). DALs may establish, assess,
16 and collect civil penalties for violations by commercial
17 applicators for an amount not to exceed \$500 for each offense
18 (Code section 206.19).