

Senate Study Bill 3125 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON DEARDEN)

A BILL FOR

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

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

1 Section 1. Section 206.2, Code 2016, 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, Code 2016, is amended
7 to read as follows:

8 2. Any person claiming damages from a pesticide
9 application, including an incident involving drift, shall ~~have~~
10 ~~filed~~ file with the secretary ~~on a form prescribed by the~~
11 ~~secretary~~ a written ~~statement~~ report claiming that the person
12 has been damaged.

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

23 b. The secretary shall prepare a form to be furnished to
24 persons to be used in such cases and such form shall contain
25 such other requirements as the secretary may deem proper. The
26 secretary shall allow such forms to be completed and filed with
27 the department via the department's internet site.

28 c. The secretary shall, upon receipt of ~~such statement~~ a
29 report, notify the licensee and the owner or lessee of the land
30 or other person who may be charged with the responsibility of
31 the damages claimed, and furnish copies of such ~~statements~~
32 report as may be requested. The secretary shall inspect
33 damages whenever possible ~~and when~~ if the secretary determines
34 that the complaint has sufficient merit. Upon evidence of
35 drift, the secretary shall collect samples for testing and

1 analysis of the presence of the reported pesticides. The
2 secretary shall deliver the samples to the state hygienic
3 laboratory at the university of Iowa for testing and analysis.
4 The laboratory shall forward its analysis to the secretary.
5 The secretary shall make such information regarding the
6 inspection and any analysis performed by the state hygienic
7 laboratory available to the person claiming damage and to the
8 person who is alleged to have caused the damage. The secretary
9 shall contract with the university of Iowa to reimburse the
10 university for the actual costs incurred by the hygienic
11 laboratory to perform tests and prepare analyses as described
12 in this paragraph.

13 Sec. 3. Section 206.19, subsection 5, Code 2016, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. c. For damages caused by drift as provided
16 in section 206.14, the amount of civil damages collected by the
17 department is appropriated to the department for reimbursement
18 of the state hygienic laboratory at the university of Iowa for
19 the performance of tests and analyses of the possible presence
20 of pesticides as reported by a person alleging damages as
21 provided in section 206.14.

22 EXPLANATION

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

25 GENERAL. This bill amends the "Pesticide Act of Iowa"
26 (Code chapter 206) by providing for incidents involving
27 "drift", which is defined to mean the movement of a pesticide
28 either during or after its application (usually to land or
29 crops) through the air to another site. The provisions are
30 administered and enforced by the department of agriculture and
31 land stewardship (DALS) under the authority of the secretary of
32 agriculture (secretary).

33 REPORTING. The bill amends a provision that allows a person
34 to report damages caused by drift to the secretary. The
35 bill allows the person to file the report concerning damages

1 allegedly caused by pesticide contamination via the internet.
2 It also provides that when investigating a report of drift,
3 the secretary must collect samples for testing and analysis of
4 the presence of the reported pesticides for delivery to the
5 state hygienic laboratory at the university of Iowa for testing
6 and analysis. The laboratory must forward its analysis to the
7 secretary who must make information regarding the inspection
8 and the analysis available to both parties. The secretary
9 is also required to contract with the university of Iowa to
10 reimburse the state hygienic laboratory for costs incurred to
11 perform tests and prepare the analyses.

12 APPROPRIATIONS — CIVIL PENALTIES. The bill also provides
13 that civil damages collected by DALs from violations involving
14 drift by commercial applicators are appropriated to DALs for
15 reimbursement of the state hygienic laboratory for purposes of
16 conducting the tests and analyses.

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