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:
Section 1. Section 206.2, Code 2016, is amended by adding the following new subsection:

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

Sec. 2. Section 206.14, subsection 2, Code 2016, is amended to read as follows:

2. Any person claiming damages from a pesticide application, including an incident involving drift, shall have filed a written statement claiming that the person has been damaged.

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

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

c. The secretary shall, upon receipt of such statement a report, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility of the damages claimed, and furnish copies of such statement as may be requested. The secretary shall inspect damages whenever possible and when the secretary determines that the complaint has sufficient merit. Upon evidence of drift, the secretary shall collect samples for testing and
analysis of the presence of the reported pesticides. The
secretary shall deliver the samples to the state hygienic
laboratory at the university of Iowa for testing and analysis.
The laboratory shall forward its analysis to the secretary. The secretary shall make such information regarding the
inspection and any analysis performed by the state hygienic
laboratory available to the person claiming damage and to the
person who is alleged to have caused the damage. The secretary
shall contract with the university of Iowa to reimburse the
university for the actual costs incurred by the hygienic
laboratory to perform tests and prepare analyses as described
in this paragraph.

Sec. 3. Section 206.19, subsection 5, Code 2016, is amended
by adding the following new paragraph:
NEW PARAGRAPH. c. For damages caused by drift as provided
in section 206.14, the amount of civil damages collected by the
department is appropriated to the department for reimbursement
of the state hygienic laboratory at the university of Iowa for
the performance of tests and analyses of the possible presence
of pesticides as reported by a person alleging damages as
provided in section 206.14.

EXPLANATION

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

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

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

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

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

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