

**Senate File 2211 - Introduced**

SENATE FILE 2211

BY WAHLS

**A BILL FOR**

1 An Act providing for the establishment and administration of  
2 an electronic case management system by the department  
3 of agriculture and land stewardship for claims involving  
4 damages resulting from the application of pesticides, and  
5 including effective date and applicability provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 206.2, Code 2020, 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 the  
5 air to a site other than the intended site of application.

6 Sec. 2. Section 206.14, Code 2020, is amended to read as  
7 follows:

8 **206.14 Reports of pesticide accidents, ~~incidents or loss~~ —**  
9 **damages — electronic case management system.**

10 1. The secretary department may by rule require the  
11 reporting of significant pesticide accidents or related  
12 incidents, including drift, to a designated state agency.

13 2. Any person claiming damages from a pesticide application  
14 shall ~~have filed~~ file with the secretary department, on a form  
15 prescribed by the secretary department, a written ~~statement~~  
16 report claiming that the person has been damaged by a pesticide  
17 application, including drift, or a related incident.

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

28 *b.* The secretary department shall prepare a form to be  
29 furnished to persons to be used in ~~such~~ cases opened by the  
30 filing of a report and such form shall contain such other  
31 requirements as the secretary department may deem proper. The  
32 department shall allow a person to complete and file a form as  
33 part of the department's electronic case management system as  
34 provided in this subsection.

35 *c.* The secretary department shall, upon receipt of such

1 ~~statement~~ a report, notify the licensee and the owner or  
2 lessee of the land or other person who may be charged with the  
3 responsibility of the damages claimed, and furnish copies of  
4 such ~~statements~~ reports as may be requested. The ~~secretary~~  
5 department shall inspect damages whenever possible and when  
6 the ~~secretary~~ department determines that ~~the complaint~~ a  
7 claim alleged in a report has sufficient merit the ~~secretary~~  
8 department shall make such information available to the person  
9 ~~claiming damage~~ making the report and to the person who is  
10 alleged to have caused the damage.

11 d. The department shall establish and administer an  
12 electronic case management system accessible via the  
13 department's internet site. The electronic case management  
14 system shall allow a person to view, download, or print  
15 documents contained in a case file, including a report alleging  
16 damages caused by drift and information related to that report,  
17 including any information submitted by a licensee or the owner  
18 or lessee of land where the pesticide was to be applied. The  
19 case file is not required to include information that directly  
20 relates to an ongoing investigation or pending administrative  
21 enforcement action. However, the case file shall include any  
22 information regarding the date, time, specific location, and  
23 immediate facts and circumstances surrounding the alleged  
24 drift. The electronic case management system shall allow a  
25 person to determine the administrative status of a report, the  
26 department's final determination regarding the report, and  
27 any decision by the department to take administrative action  
28 against a licensee who is responsible for causing the drift as  
29 claimed in the report.

30 3. The filing of such a report or failure to give notice  
31 shall not preclude recovery in an action for damages and shall  
32 not affect the limitations of actions set forth in [chapter 614](#).  
33 Nothing herein shall prohibit an action for damages for bodily  
34 injury or death to any person.

35 a. The filing of such report or the failure to file such a

1 report shall not be a violation of this chapter. However, if  
2 the person failing to file such report is the only one injured  
3 from such use or application of a pesticide by others, the  
4 secretary department may, when in the public interest, refuse  
5 to hold a hearing for the denial, suspension, or revocation of  
6 a license or permit issued under this chapter until such report  
7 is filed.

8 *b.* Where damage is alleged to have occurred, the ~~claimant~~  
9 person filing the report shall permit the secretary department,  
10 the licensee, and the licensee's representatives, such as  
11 surety or insurer, to observe within reasonable hours the lands  
12 or nontarget organism alleged to have been damaged in order  
13 that such damage may be examined. ~~Failure~~ The failure of the  
14 ~~claimant~~ person to permit such observation and examination of  
15 the ~~damaged lands~~ damage shall automatically bar the claim  
16 against the licensee.

17 4. The secretary department shall require, by rule, that  
18 ~~veterinarians~~ a veterinarian licensed and practicing ~~veterinary~~  
19 ~~medicine in the~~ this state promptly report to the department a  
20 case of domestic livestock poisoning or suspected poisoning by  
21 agricultural chemicals.

22 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate  
23 importance, takes effect upon enactment.

24 Sec. 4. APPLICABILITY. This Act does not require the  
25 department of agriculture and land stewardship to provide  
26 access to the electronic case management system in order to  
27 view, download, or print documents that were filed with the  
28 department prior to January 1, 2021.

29

EXPLANATION

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

32 BILL'S PROVISIONS. This bill amends the "Pesticide Act of  
33 Iowa" (Code chapter 206), which is administered and enforced by  
34 the department of agriculture and land stewardship (DALs) under  
35 the supervision of the secretary of agriculture. The bill

1 requires DALs to establish and administer an electronic case  
2 management system (system) accessible by a member of the public  
3 using DALs' internet site. The system must allow a person to  
4 view, download, or print documents contained in a case file,  
5 including documents relating to a report in which there is a  
6 claim of damages resulting from the drift of a pesticide. It  
7 must also allow a person to determine the administrative status  
8 of a report, the department's final determination regarding  
9 the report, and any decision by the department to take  
10 administrative action against a licensee who is responsible for  
11 causing the drift as claimed in the report.

12 BACKGROUND. A pesticide is any substance used to prevent,  
13 destroy, repel, or mitigate damages caused by insects, rodents,  
14 nematodes, fungi, weeds, or other forms of plant or animal life  
15 or viruses (Code section 206.2). A person who claims damages  
16 incurred as a result of the application of pesticides may file  
17 a report with DALs, which may conduct an investigation (Code  
18 section 206.14). DALs may suspend or revoke an applicator's  
19 license for negligence (Code section 206.11) and may establish,  
20 assess, and collect civil penalties for violations by  
21 commercial applicators for an amount not to exceed \$500 for  
22 each offense (Code section 206.19).

23 EFFECTIVE DATE. The bill takes effect upon enactment.

24 APPLICABILITY. The bill provides that DALs is not required  
25 to provide access to the system to view, download, or print  
26 documents that were filed with the department prior to January  
27 1, 2021.