

**CHAPTER 130****COMMERCIAL APPLICATORS OF PESTICIDES***H.F. 641*

**AN ACT** relating to the department of agriculture and land stewardship, by providing for the assessment and collection of civil penalties against commercial applicators of pesticides.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 206.19, subsection 5, Code 1993, is amended to read as follows:

5. Establish, assess, and collect civil penalties for violations by commercial applicators. In determining the amount of the civil penalty, the department shall consider all of the following factors:

- a. The willfulness of the violation.
  - b. The actual or potential danger of injury to the public health or safety, or damage to the environment caused by the violation.
  - c. The actual or potential cost of the injury or damage caused by the violation to the public health or safety, or to the environment.
  - d. The actual or potential cost incurred by the department in enforcing this chapter and rules adopted pursuant to this chapter against the violator.
  - e. The remedial action required of the violator.
  - f. The violator's previous history of complying with orders or decisions of the department.
- The amount of the civil penalty shall not exceed five hundred dollars for each offense.

Sec. 2. **NEW SECTION. 206.23A COMMERCIAL PESTICIDE APPLICATOR PEER REVIEW PANEL.**

1. The department shall establish a commercial pesticide applicator peer review panel to assist the department in assessing or collecting a civil penalty pursuant to section 206.19. The secretary shall appoint the following members:

- a. A person actively engaged in the business of applying pesticides by use of an aircraft and who is licensed as an aerial commercial applicator in this state pursuant to section 206.6.
- b. A person actively engaged in the business of applying pesticides in urban areas on lawns and gardens, and who is licensed as a commercial applicator pursuant to section 206.6.
- c. A person actively engaged in the business of applying pesticides within structures used for residential or commercial purposes, and who is licensed as a commercial applicator pursuant to section 206.6.
- d. A person actively engaged in the business of applying pesticides on agricultural land used for farming and who is licensed as a commercial applicator pursuant to section 206.6.
- e. A person certified as a public applicator pursuant to section 206.5.

2. a. The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. Three voting members constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by the department.

3. The panel shall make recommendations to the department regarding the establishment of civil penalties and procedures to assess and collect penalties, as provided in section 206.19. The panel may propose a schedule of penalties for minor and serious violations. The department may adopt rules based on the recommendations of the panel as approved by the secretary.

4. The panel shall review cases of persons required to be licensed as commercial applicators who are subject to civil penalties as provided in section 206.19 according to rules adopted by the department. A review shall be performed upon request by the secretary or the person subject to the civil penalty. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The rules may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a commercial applicator.

5. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A.

6. This section does not apply to a license revocation proceeding. This section does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of this chapter for criminal prosecution, or for an action involving a stop order issued pursuant to section 206.16. The department shall consider any available response by the panel, but is not required to change findings of an investigation, a penalty sought to be assessed, or a manner of collection.

7. An available response by the panel may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential pursuant to section 22.7.

Approved May 12, 1993

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## CHAPTER 131

### STATE FINANCES — DEPOSIT AND USE OF DESIGNATED MONEYS

*H.F. 669*

**AN ACT** requiring that certain moneys shall be credited to and deposited in the general fund of the state and shall be used for the purposes for which the moneys were collected and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 8.60 USE OF DESIGNATED MONEYS.**

Moneys credited to or deposited in the general fund of the state on or after July 1, 1993, which under law were previously collected to be used for specific purposes, or to be credited to, or be deposited to a particular account or fund shall only be used for the purposes for which the moneys were collected, including but not limited to moneys collected in accordance with any of the following provisions:

1. Pari-mutuel regulation fund created in section 99D.17.