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HOUSE FILE NO. 2459

FIRST COMMITTEE ENGROSSMENT

May 1, 2007

Authored by Tschumper; Otremba; Norton; Moe; Murphy, E., and others

The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

February 19, 2008

By motion, recalled and re-referred to the Committee on Finance

Referred by Chair to Housing Policy and Finance and Public Health Finance Division.

February 26, 2008

Returned to the Committee on Finance as Amended.

1.1 A bill for an act
1.2 relating to agriculture; modifying pesticide application notice and record
1.3 requirements; modifying fees; providing for disposition of certain revenue;
1.4 classifying data; providing civil and criminal penalties; amending Minnesota
1.5 Statutes 2006, sections 18B.09, subdivision 3; 18B.37, subdivisions 2, 5;
1.6 Minnesota Statutes 2007 Supplement, section 18B.26, subdivision 3; proposing
1.7 coding for new law in Minnesota Statutes, chapter 18B.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2006, section 18B.09, subdivision 3, is amended to read:

1.10 Subd. 3. **Warning signs for pesticide application.** (a) All commercial or
1.11 noncommercial applicators who apply pesticides to turf areas must post or affix warning
1.12 signs on the property where the pesticides are applied.

1.13 (b) Warning signs must project at least 18 inches above the top of the grass line. The
1.14 warning signs must be of a material that is rain-resistant for at least a ~~48-hour~~ 96-hour
1.15 period and must be placed 48 hours before the time of initial application and must remain
1.16 in place up to 48 hours from the time of initial application.

1.17 (c) The following information must be printed on the warning sign in contrasting
1.18 colors and capitalized letters measuring at least one-half inch, or in another format
1.19 approved by the commissioner. The sign must provide the following information:

1.20 (1) the name of the business organization, entity, or person applying the pesticide;
1.21 and

1.22 (2) the following language: "This area chemically treated. Keep children and pets
1.23 off until ...(date of safe entry)..." or a universally accepted symbol and text approved by
1.24 the commissioner that is recognized as having the same meaning or intent as specified in
1.25 this paragraph. The warning sign may include the name of the pesticide used.

2.1 (d) The warning sign must be posted on a lawn or yard between two feet and five
2.2 feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds,
2.3 or other similar recreational property, the warning signs must be posted immediately
2.4 adjacent to areas within the property where pesticides have been applied and at or near the
2.5 entrances to the property.

2.6 **Sec. 2. [18B.093] PESTICIDE APPLICATION IN RURAL AREAS.**

2.7 Applicators required to keep and submit application records under section 18B.37
2.8 shall post the pending application of pesticides 48 hours in advance of the initial
2.9 application on a Web site developed by the commissioner of agriculture under section
2.10 18B.26. These applicators shall post notice of a pending application 48 hours in advance
2.11 by placing red flags, two feet by two feet, on six-foot poles around the perimeter of the
2.12 property to be sprayed.

2.13 Sec. 3. Minnesota Statutes 2007 Supplement, section 18B.26, subdivision 3, is
2.14 amended to read:

2.15 Subd. 3. **Application fee.** (a) A registrant shall pay an annual application fee for
2.16 each pesticide to be registered, and this fee is set at ~~0.4~~ 0.5 percent of annual gross sales
2.17 within the state and annual gross sales of pesticides used in the state, with a minimum
2.18 nonrefundable fee of \$250. The registrant shall determine when and which pesticides
2.19 are sold or used in this state. The registrant shall secure sufficient sales information of
2.20 pesticides distributed into this state from distributors and dealers, regardless of distributor
2.21 location, to make a determination. Sales of pesticides in this state and sales of pesticides
2.22 for use in this state by out-of-state distributors are not exempt and must be included in the
2.23 registrant's annual report, as required under paragraph (c), and fees shall be paid by the
2.24 registrant based upon those reported sales. Sales of pesticides in the state for use outside
2.25 of the state are exempt from the application fee in this paragraph if the registrant properly
2.26 documents the sale location and distributors. A registrant paying more than the minimum
2.27 fee shall pay the balance due by March 1 based on the gross sales of the pesticide by
2.28 the registrant for the preceding calendar year. The fee for disinfectants and sanitizers
2.29 shall be the minimum. The minimum fee is due by December 31 preceding the year for
2.30 which the application for registration is made. The commissioner shall spend at least
2.31 \$400,000, not including the commissioner's administrative costs, per fiscal year from the
2.32 pesticide regulatory account for the purposes of the waste pesticide collection program.
2.33 The commissioner shall use at least 20 percent of the revenue from the application fee
2.34 in each fiscal year for the purpose of developing and maintaining electronic means of

3.1 receiving and storing the application records submitted under section 18B.37, subdivision
3.2 2, paragraph (f), including but not limited to a Web site that applicators may use to submit
3.3 their records, a person may use to view these records, and applicators shall use to notify
3.4 the public of pending applications of pesticides.

3.5 (b) An additional fee of \$100 must be paid by the applicant for each pesticide to be
3.6 registered if the application is a renewal application that is submitted after December 31.

3.7 (c) A registrant must annually report to the commissioner the amount and type of
3.8 each registered pesticide sold, offered for sale, or otherwise distributed in the state. The
3.9 report shall be filed by March 1 for the previous year's registration. The commissioner
3.10 shall specify the form of the report and require additional information deemed necessary
3.11 to determine the amount and type of pesticides annually distributed in the state. The
3.12 information required shall include the brand name, amount, and formulation of each
3.13 pesticide sold, offered for sale, or otherwise distributed in the state, but the information
3.14 collected, if made public, shall be reported in a manner which does not identify a specific
3.15 brand name in the report.

3.16 (d) A registrant who is required to pay more than the minimum fee for any pesticide
3.17 under paragraph (a) must pay a late fee penalty of \$100 for each pesticide application fee
3.18 paid after March 1 in the year for which the license is to be issued.

3.19 Sec. 4. Minnesota Statutes 2006, section 18B.37, subdivision 2, is amended to read:

3.20 Subd. 2. **Commercial and, noncommercial, and private applicators.** (a) A
3.21 commercial or noncommercial applicator, or the applicator's authorized agent, must
3.22 maintain a record of pesticides used on each site. Noncommercial and private applicators
3.23 must keep records of restricted use pesticides. The record must include the:

3.24 (1) date of the pesticide use;

3.25 (2) time the pesticide application was completed;

3.26 (3) brand name of the pesticide, the United States Environmental Protection Agency
3.27 registration number, and dosage used;

3.28 (4) number of units treated;

3.29 (5) temperature, wind speed, and wind direction;

3.30 (6) location of the site where the pesticide was applied;

3.31 (7) name and address of the customer;

3.32 (8) name and signature of applicator, name of company, license number of applicator,
3.33 and address of applicator company; and

3.34 (9) any other information required by the commissioner.

4.1 (b) Portions of records not relevant to a specific type of application may be omitted
4.2 upon approval from the commissioner.

4.3 (c) All information for this record requirement must be contained in a single page
4.4 document for each pesticide application, except a map may be attached to identify treated
4.5 areas. For the rights-of-way and wood preservative categories, the required record may
4.6 not exceed five pages. An invoice containing the required information may constitute
4.7 the required record. The commissioner shall make sample forms available to meet the
4.8 requirements of this paragraph.

4.9 (d) A commercial applicator must give a copy of the record to the customer.

4.10 (e) Records must be retained by the applicator, company, or authorized agent for five
4.11 years after the date of treatment.

4.12 (f) A commercial, noncommercial, or private applicator who applies pesticides
4.13 to potato or hybrid poplar fields must file records of pesticide applications with the
4.14 commissioner of agriculture on a monthly basis. Records may be filed electronically or
4.15 by mail. The commissioner of agriculture shall make available to the public all of the
4.16 information in the submitted records, as listed in paragraph (a), clauses (1) to (9), and shall
4.17 electronically send the information to the commissioner of health each month.

4.18 (g) An applicator must not knowingly submit a false record or fail to submit a record
4.19 of a pesticide application. The commissioner of agriculture must assess a penalty of \$25
4.20 to an applicator each of the first four times that the applicator fails to submit a required
4.21 record by the monthly deadline.

4.22 (h) A person who uses the information submitted under paragraph (f) for data mining
4.23 or other commercial purposes is guilty of a misdemeanor and subject to the maximum
4.24 penalty of \$1,000.

4.25 Sec. 5. Minnesota Statutes 2006, section 18B.37, subdivision 5, is amended to read:

4.26 Subd. 5. **Inspection of records.** The commissioner of agriculture or the
4.27 commissioner of health may enter a commercial, noncommercial, or structural pest control
4.28 applicator's business and inspect the records required in this section at any reasonable time
4.29 and may make copies of the records. Unless required for enforcement of this chapter,
4.30 the information in the records in this section, other than the information in the records
4.31 submitted under subdivision 2, paragraph (f), is private or nonpublic. The information in
4.32 the records identified in subdivision 2, paragraph (f), is public.