

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2081
(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to create and enact a new section to chapter 19-18 of the North Dakota Century Code, relating to experimental use permits; to amend and reenact section 4-35-06 of the North Dakota Century Code, relating to restricted use pesticides; and to repeal section 4-35-07 of the North Dakota Century Code, relating to experimental use permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-18 of the North Dakota Century Code is created and enacted as follows:

Experimental use permits. Provided the state is authorized by the administrator of the environmental protection agency to issue experimental use permits, the commissioner may:

1. Issue an experimental use permit to a person applying for a permit if the commissioner determines that the applicant requires the permit to accumulate information necessary to register a pesticide use. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.
2. Prescribe terms, conditions, and the period of time for use under the experimental use permit.
3. Revoke an experimental use permit, at any time, if the commissioner finds that its terms or conditions are being violated or that its term and conditions are inadequate to avoid unreasonable adverse effects to human health or the environment.

SECTION 2. AMENDMENT. Section 4-35-06 of the North Dakota Century Code is amended and reenacted as follows:

4-35-06. Pesticide control board to administer chapter and adopt regulations.

1. a. The pesticide control board shall administer this chapter and may adopt rules in accordance with chapter 28-32 to implement this chapter. The rules may prescribe methods to be used in the application of pesticides. The rules may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and shall encompass all reasonable factors which the board deems necessary to prevent damage or injury by drift or misapplication to:
 - (1) Plants, including forage plants, on adjacent or nearby lands.
 - (2) Wildlife in the adjoining or nearby areas.
 - (3) Fish and other aquatic life in waters in proximity to the area to be treated.
 - (4) Persons, animals, or beneficial insects.
- b. In adopting rules, the board shall give consideration to pertinent research findings and recommendations of other agencies of this state, the federal government, or other reliable sources.

- ~~2. For the purpose of uniformity, the board may adopt restricted use classifications as determined by the federal environmental protection agency. The board may also by rule determine state restricted use pesticides for the state or designated areas within the state.~~
- ~~3.~~ The board, in adopting rules under this chapter, shall prescribe standards and requirements for the certification of applicators of pesticides. These standards and requirements must relate to the use and handling of pesticides. In determining these standards and requirements, the board shall take into consideration standards and requirements prescribed by the environmental protection agency.
- ~~4.~~ 3. Rules adopted under this chapter may not permit any pesticide use which is prohibited by the Federal Insecticide, Fungicide, and Rodenticide Act or regulations or orders issued thereunder.
- ~~5.~~ 4. In order to comply with section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act, the board may make such reports to the United States environmental protection agency in such form and containing such information as that agency may from time to time require.
- ~~6.~~ 5. Rules to implement this chapter may provide for:
 - a. The collection, examination, and reporting of samples of pesticides.
 - b. The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers.
 - c. The identification of pests under this chapter when the board finds particular organisms to be annoying or otherwise injurious or harmful to agriculture, health, and the environment.

SECTION 3. REPEAL. Section 4-35-07 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2081.

Senate Vote: Yeas 43 Nays 0 Absent 4

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State