

## **Chairman Luick and Members of this Committee,**

My name is Charlene Nelson and I am here to enumerate the many reasons I am opposed to HB1318.

This bill would **strip North Dakotans of their legal rights** while granting pesticide and herbicide manufacturers unprecedented immunity from liability. This bill prioritizes corporate interests over public health, farmer safety, and consumer protection.

The proponents argue that **EPA-approved labels provide adequate warnings**. This assumption is deeply flawed. Here's why:

### **1. EPA Labels Are Not Infallible**

The **EPA's pesticide and herbicide approval process is *not* a guarantee of safety**. It is based on limited data, much of which comes from the manufacturers themselves.

- Just like FDA approved medications, there have been many **EPA-approved pesticides** that have later been found to be harmful. A designation of safe does not ensure that the product is *de facto* safe.

**Chlorpyrifos**, is a good example of this. The EPA said this pesticide was safe and it was used worldwide since the 1960's. But in 1999 the World Health Organization said that studies showed it was acutely toxic and was linked to neurological effects, persistent developmental disorders, and autoimmune disorders. Even with that information, it took the EPA another 22 years before it was banned for commercial food use in the US.

Here's an interesting note about Chlorpyrifos: It was first banned for home use in 2001, but the EPA allowed farmers to use it for another 21 years.

Glyphosate, which is known carcinogen, has taken a similar route: Two years ago Bayer, banned the sale of RoundUp for residential lawns and gardens. Yet Modern Ag Alliance will tell you that the only reason they want this bill to be passed is to help farmers. How does that work? They remove Roundup from the garden centers because they're concerned for the health of the everyday homeowner and gardener but they have no regard for how it will hurt our farmers. Is it because they make so much money from the agricultural use that the lives of the farmers are expendable?

**By automatically treating EPA labels as a "sufficient warning," this bill ignores the reality that regulatory oversight is imperfect and subject to political influence.**

### **2. HB1318 Would Block Legitimate Lawsuits, Even When the Products Cause Harm**

- Under this bill, if a pesticide or herbicide **causes cancer, neurological disorders, or birth defects**, victims would have no legal recourse **as long as the label complied with EPA standards**.

- This completely **removes accountability** for all chemical manufacturers, even if new science emerges showing their product is dangerous.

- This bill would prevent courts from considering whether a pesticide or herbicide company knew more about its product's dangers than what was disclosed on the label.

### 3. North Dakota Should Not Surrender Its Right to Protect Citizens

- The **Federal Insecticide, Fungicide, and Rodenticide Act**

(FIFRA) establishes **minimum** safety requirements—but **states have the right to impose stricter protections** if needed.

- HB1318 **takes away North Dakota's ability to hold agrochemical companies accountable**, leaving us **completely dependent on federal bureaucracies** that may not act quickly enough.

### 4. The Bill Harms Farmers, Ranchers, and Rural Communities

- Many North Dakotans, especially farmers, are **directly exposed to harmful chemicals**—they deserve the right to sue if they develop illnesses caused by these products.

Numerous court cases have proven that glyphosate causes Non-Hodgkins Lymphoma. And North Dakota has the 7<sup>th</sup> highest rate of Non-Hodgkins Lymphoma. Modern Ag Alliance has bills almost identical to HB1318 in eight other states, including Florida and Iowa. Curiously, Florida and Iowa also have the highest and second highest rates (respectively) of Non-Hodgkins Lymphoma in the nation. This might be pure coincidence but I think it's a pattern that deserves scrutiny from this body.

- This bill also hurts innocent third parties.** Bayer and the other chemical companies might successfully argue in court that the farmers knew the risks when they read the labels. They'd been warned and they were free to decide if increased crop yields was worth the risk of using these chemicals.

But what about the neighbor whose children were playing outside when the field was sprayed? What about the lawn company that sprays your neighbor's yard and your dog runs through the treated grass? What about those whose ground water is contaminated by these chemicals?

When a pesticide or herbicide **contaminates water supplies or drifts onto neighboring crops**, victims should not be denied justice just because a label met federal guidelines.

### 5. The “Duty to Warn” is a Fundamental Legal Protection

- For decades, courts have recognized that companies **cannot hide behind regulatory compliance** when their products harm people.

- If this bill passes, agrochemical manufacturers would be treated **differently than every other industry**—drug companies, car manufacturers, and food producers can still be sued when their products cause harm.

## **A response to Modern Ag Alliance's complaint about frivolous lawsuits**

**Modern Ag Alliance maintains that this bill is needed to forestall or prevent frivolous and nuisance lawsuits. There are two responses to this assertion:**

- Judges are already empowered to dismiss cases that have no merit. This body should assume that any case that survives an evidentiary hearing has sufficient merit that it should be given a fair hearing.
- Lawsuits are one of the best mechanisms for compelling a company to produce a safer product. If you remove all liability, you also remove all incentive for these companies to produce a better, safer product. This harms North Dakota farmers, their neighbors and all consumers of North Dakota's agricultural products.

## **Conclusion**

HB1318 is a **dangerous, sweeping immunity bill** that would:

- Block lawsuits from farmers and rural residents harmed by pesticides and herbicides.
- Prevent courts from holding companies accountable for failing to warn of known dangers.
- Disincentivize the development of safer product.
- Strip North Dakota of its right to protect its people from harmful chemicals.

I urge this committee to vote **Do Not Pass on HB1318** and stand with North Dakotans, not pesticide and herbicide manufacturers.