



North Dakota Association for Justice
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The Trial Lawyers of North Dakota

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Chairman Luick and members of the Senate Ag and Veterans Affairs Committee, my name is Jaci Hall, Executive Director of the North Dakota Association for Justice. I am here opposed to HB1318.

HB 1318 says that if a pesticide has an EPA-approved label, that label is automatically considered a **"sufficient warning"** under North Dakota law. This means that farmers cannot sue pesticide manufacturers if their farms are destroyed or they get cancer from those pesticides, even if the label is later proven wrong or misleading.

The bill specifically states that a pesticide label is legally adequate if:

1. It was approved by the EPA during registration, **even if the company misled regulators.**
2. It matches the most recent EPA health assessment, **even if new science later proves the pesticide is more dangerous than previously thought.**
3. It follows the EPA's carcinogenicity classification, **even if independent scientists overwhelmingly link the pesticide to cancer.**

If a pesticide meets any of these conditions, farmers are blocked from holding the manufacturer accountable under North Dakota law. Even when companies knowingly hide dangers, they can point to the EPA-approved label and avoid accountability.

This eliminates all claims under North Dakota law, not just failure to warn. If the label is a "sufficient warning" under North Dakota law, then *by definition* the product can't be "unreasonably dangerous" under North Dakota law either. **Something can't be unreasonably dangerous if it has a sufficient warning.** By deeming the EPA label a sufficient warning, in effect the company gets total immunity.

Farmers deserve the freedom to hold foreign pesticide manufacturers accountable **when labels are false or misleading**—especially with the EPA managing over 16,000 registered products. **Without this amendment, pesticide companies would have total immunity similar**



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to the vaccine industry. This amendment is essential to preserves **farmers' ability to enforce *existing* FIFRA misbranding rules** and ensures that honest labeling remains the standard.

Today, I am here with a proposed amendment to add Section 2 to HB1318:

Section 2 – Pesticide Labeling - Exception

Nothing in this section shall be construed to apply to any action or claim arising under state law that is equivalent to, and fully consistent with, the misbranding standards set forth in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136(q)."

What does this amendment do?

1.Misbranding Is a Federal Standard

Under FIFRA, a label is misbranded if it is false or misleading, lacks adequate instructions, or omits necessary warnings is unlawful at the federal level. This amendment simply protects farmers property right to requirements.

2.Consistent with FIFRA and EPA Authority

The EPA registers products and sets labeling standards once every 15 year *at best*. EPA does not actively keep up with the 16000 pesticides in use under their authority, instead relying on pesticide manufacturers to submit updated labels to avoid misbranding. This amendment reinforces FIRRA and the EPA's own regulations.

3. Registration Is Not a Defense under FIFRA

FIFRA explicitly states that registering a pesticide is not an excuse a misbranded product. See 7 U.S.C. § 136a(f)(2). Even if a pesticide passes initial federal review, that does not guarantee the label is accurate or sufficient. This amendment ensures companies are accountable for misbranding, preventing an unlawful label from getting a free pass simply because the product was registered in the past.



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This amendment is necessary to ensure that state law is consistent with FIFRA's provision that misbranded pesticides are unlawful. Farmers will still bear the burden of proving that a pesticide label is false or misleading, lacks adequate instructions, or omits necessary warnings required by EPA under FIFRA 7 U.S.C. § 136(q). But, this amendment gives them a path to hold companies accountable when they misbrand their pesticide.

4. Without the Amendment, Accountability Is Lost

If we strip away farmers' ability to hold companies accountable for unlawful misbranding, farmers and families are put at risk. For example, 250,000 acres of North Dakota soybeans were destroyed in 2017 by a misbranded dicamba label that failed to prevent drift. Monsanto knew it would drift but hid the data from the EPA. EPA cannot enforce FIFRA to obtain recourse on behalf of farmers and never held Monsanto accountable for actively deceiving them either. Without this amendment, Monsanto and similar companies could dodge responsibility for harm they caused to farmers.

Attached is an article by the USDA that shows after this drift happened, North Dakota imposed additional requirements and restrictions on Dicamba use. With this legislation, these additional restrictions imposed to support farmers would become void.

These restrictions were the result of lawsuits after the drift. Duty of care is the backbone of liability. If you owe a duty of care to someone and you breach that duty, you are responsible. This amendment will hold the companies accountable to not mislead North Dakota Farmers.

5. ChemChina benefits from misbranding.

ChemChina owns Syngenta and is a major manufacturer of pesticides in the United States. ChemChina is labeled by the Department of Defense as a Chinese Military Company Operating in the Untied States. ChemChina complies with FIFRA and would benefit from total immunity for misbranding under HB 1318. **This amendment is necessary to let North Dakota**



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farmers hold ChemChina accountable for unlawfully misbranding their pesticides under federal law.

Without this amendment, foreign pesticide companies like ChemChina would be given total and complete immunity for violating federal labeling law.

This legislation is a national bill in state legislatures all over the country. Recently, it has failed in Montana, Wyoming, Mississippi. The legislation failed in Missouri and Idaho in 2024.

If this legislation fails, it will not restrict the use of Roundup or other pesticides as the Modern Ag Alliance has indicated. Modern Ag Alliance is a company out of Missouri owned by Bayer Monsanto.

Please consider your neighbor, your constituent and yourself as you debate the merits of this bill. Trusting science is one thing, but providing immunity to chemical companies when they cause harm is simply not right.

North Dakota farmers have the right to hold chemical companies accountable when they misbrand a product and cause harm. Providing the pathway does not initiate legal action, just gives them the opportunity if they need it.

If this amendment is not adopted, I ask you for a Do not Pass on HB 1318.