

SENATE BILL NO. 2228

Introduced by

Senator Klein

Representative DeKrey

1 A BILL for an Act to amend and reenact section 4-35-21.1 of the North Dakota Century Code,
2 relating to reports of loss incurred through pesticide application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 4-35-21.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-35-21.1. Reports of loss through pesticide application required.**

- 7 1. No civil action may be commenced arising out of the application of any pesticide by
8 any applicator inflicting damage on property unless, within sixty days from the date
9 the claimant knew or reasonably should have known of the damage:
- 10 a. The claimant has served the applicator allegedly responsible for damage with
11 a verified report of loss;
 - 12 b. If the claimant is someone other than the person employing the applicator
13 alleged to be responsible for the damage, the claimant has served the person
14 who employed the applicator allegedly responsible for the damage with a
15 verified report of loss; and
 - 16 c. The claimant has mailed or delivered to the agriculture commissioner a
17 verified report of loss together with proof of service of the report required by
18 subdivision a and the report required by subdivision b, if applicable.
- 19 2. Notwithstanding the provisions of subsection 1, if damage is alleged to have
20 occurred to growing crops, the report must be filed prior to the time fifty percent of
21 the field is harvested or within sixty days from the date the claimant knew or
22 reasonably should have known, whichever occurs first.
- 23 3. The applicator must provide anyone who alleges damage with information of this
24 section for filing a verified report and that timely filing of a report is a prerequisite to

- 1 any civil action. Failure of the applicator or the applicator's agent to provide such
2 information, in addition to the penalties of this chapter, may be grounds for
3 revocation of the applicator's certification, ~~and, in addition,~~ the sixty-day limitation
4 of this section ~~does~~ and the requirement of subsection 2 that the report be filed
5 before fifty percent of the field is harvested do not apply.
- 6 4. No verified report of loss is required when the claimant was the operator or
7 applicator of the herbicide, insecticide, fungicide, or agricultural chemical.