



North Dakota Association for Justice
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Chairman Beltz and members of the Agriculture Committee, my name is Jaclyn Hall, the Executive Director of the North Dakota Association for Justice.

Today, I am here to testify in opposition to HB1318 as it is currently written.

Our concern about HB1318 is we believe this is a point in time statute that does not have the ability to evolve over time. If the EPA were to update pesticides or other chemicals in the future, is the wording in this statute sufficient?

Today I ask the committee to consider this amendment:

2. Exception Upon EPA or Judicial Action.

If, after any registration or labeling approval described in subsection 1(a), one or more of the following events occurs, compliance with the prior label, usage instructions, or registration terms shall no longer be deemed sufficient for any alleged harm (including harm to persons, property, or the environment) that arises out of, is associated with, or is relevant to the risk or hazard that the EPA or judicial action addresses:

- a. The United States Environmental Protection Agency modifies, revises, or otherwise updates any labeling requirements, usage instructions, restricted-use designations, or other conditions under FIFRA—including but not limited to mitigation or disclosure of risks to humans, property, or the environment;**
- b. The EPA withdraws, cancels, suspends, or otherwise invalidates the pesticide's registration or any material portion thereof; or**
- c. A court of competent jurisdiction issues a final order that strikes down, vacates, or otherwise invalidates the pesticide's registration, underlying document supporting registration, or its material conditions under FIFRA.**



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For purposes of subsection 2(a), “modifies, revises, or otherwise updates” includes the addition or alteration of warnings, cautionary statements, directions for reducing drift or exposure, reentry intervals, or any other measure designed to mitigate or disclose hazards or risks, including any new or changed instructions requiring or recommending washing or decontamination steps to reduce exposure.

If the EPA updates the label, withdraws or cancels the pesticide, or if a court says the label or registration is not valid, the old label is no longer a defense.

For example, if the EPA decides to ban or change the label for the ChemChina chemical Paraquat because it can lead to Parkinsons, this amendment is sufficient to adjust the label accordingly. This also involves changes the EPA could make to the safe handling of products like Paraquat. Handwashing guidelines or the use of a mask may not be explicitly made, but the update to the label would protect a defense ‘if used in compliance with the label’.

NDAJ is not opposed to using pesticides or other chemicals. Our concern is that as chemicals evolve over time, new chemicals are created and chemicals are retired, this statute does not evolve with it.

This amendment will not reduce the ability to use certain chemicals, rather it will create fluidity so when labels are updated, they will be the new standard for defense.

Without a change as mentioned above, this statute would have to be addressed on a session-by-session basis to update the sufficient labeling standard.

Thank you for your time and consideration of our amendment.

I will stand for questions.