

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB100

Hearing Date: Tuesday January 20, 2009
Committee On: Agriculture
Introducer: Carlson
One Liner: Change Pesticide Act provisions

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Carlson, Dierks, Dubas, Karpisek, Price, Schilz, Wallman
Nay:		
Absent:	1	Senator Council
Present Not Voting:		

Proponents:

Rick Leonard
Greg Ibach
Rich Reiman

Representing:

Senator Tom Carlson
Nebraska Department of Agriculture
Nebraska Department of Agriculture

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 100 inserts the following series of clarifications of authorities available to the Department of Agriculture to implement and enforce the Nebraska Pesticide Act:

* Inserts new text into section 2-2629. This section prescribes information to be provided to the Department of Agriculture as a precondition to register a pesticide product for sale and use within the state. Current law authorizes the Department to request from the registrant a full description of tests and test results evaluating product efficacy, environmental and human health implications, and supporting the labeling for products that are not federally registered or those products for which federal or state restrictions are being considered. LB 100 would:

* add authorization for the Department to request such information at any time, not necessarily limited to requesting as part of preregistration information

* allow the Department to request this information of any product, not limited to products that are not federally registered

* authorize the Department to request additional testing or monitoring of the products use in Nebraska to verify that assumptions of environmental interactions used in federal registration and labeling instructions are applicable to Nebraska conditions.

* Amends section 2-2636 which currently authorizes the Department to issue reciprocal Nebraska applicator licenses to non-residents licensed by another state. LB 100 clarifies this section to expressly provide that Nebraska residents are not eligible for reciprocal licensure.

Sections 3 through 5 amend sections of the Pesticide Act to require applicants for licensure as commercial, non-commercial or private applicators to provide their date of birth with other information provided for licensure

application.

* Amends section 2-2645 governing the Departments response to claims of damage by third parties from pesticide applications. Current law allows the Department some discretion in investigation effort where the complaint is not timely or clearly frivolous and also allows the Department discretion whether to pursue disciplinary action if a complainant fails to file a report. LB 100 makes two revisions:

* Adds that a complainants refusal to cooperate with the Departments investigation of a complaint is a factor the Department may consider in exercising discretion whether to pursue disciplinary action.

* Removes a duty of a complainant to allow a licensee to observe property alleged to have been damaged

* Amends section 2-2646 which enumerates prohibited acts pertaining to the use of pesticides. Such prohibitions are not necessarily limited to apply only to licensed entities. Current subsection (9) states that it is unlawful to commit an act that would subject a licensee to licensure discipline. (Such acts are enumerated and defined in section 2-2643.01 and 2-2643.02).

LB 100 adds clarifying text to remove any ambiguity that subsection (9) prohibition applies regardless of whether the person committing the violation is licensed.

Explanation of Committee Amendments, if any:

Tom Carlson, Chairperson