

HOUSE BILL NO. 662

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RONE.

0071H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 281, RSMo, by adding thereto one new section relating to the misuse of herbicides, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 281, RSMo, is amended by adding thereto one new section, to be known as section 281.120, to read as follows:

281.120. 1. As used in this section, the following terms shall mean:

(1) **“Department”**, the department of agriculture;

(2) **“Field”**, agricultural land which is operated as part of a farm and which is separated from the rest of the farm by permanent boundaries including, but not limited to, fences, permanent waterways, woodlands, croplines not subject to change due to farming practices, and other similar features;

(3) **“Herbicide”**, any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed;

(4) **“Misuse of dicamba”**, the use of a herbicide in the benzoic acid family, including dimethylamine salt and diglycolamine salt, in a manner inconsistent with its labeling or the use of such herbicide not approved by the Environmental Protection Agency;

(5) **“Volatile compound”**, a herbicide that is inherently volatile and has a vapor pressure of 10^{-3} mmHg or higher.

2. **If the department determines, after inquiry and opportunity for a hearing, that any individual has misused dicamba which resulted in the herbicide drifting or coming into contact with another individual’s field other than the field for which the herbicide was intended or onto another individual’s personal property, which resulted in damage to such**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 field or personal property, the department shall have the authority to assess a civil penalty
19 of one thousand dollars per applied acre. If an individual has violated the provisions of
20 this subsection in two consecutive years or in two of the last three years, he or she shall be
21 considered a chronic violator, and the department shall have the authority to assess a civil
22 penalty of two thousand dollars per applied acre.

23 3. During an active complaint investigation, the department may subpoena
24 witnesses and compel the production of books, documents, and certification records of any
25 individual relating to the individual's application of any herbicide to any field. If an
26 individual refuses to submit such information, the department may assess a civil penalty
27 of one thousand dollars per applied acre.

28 4. Any individual who is penalized under the provisions of this section shall be
29 liable for any reasonable costs associated with the department's testing of fields or personal
30 property affected by such herbicide use and shall remit such costs to the department.

31 5. Any penalty collected under this section shall be remitted to the school district
32 in which the violation occurred. If an individual penalized under this section fails to pay
33 the penalty, the department may apply to the circuit court of Cole County for, and the
34 court is authorized to enter, an order enforcing the assessed penalty.

35 6. The department, after inquiry and opportunity for a hearing, may deny,
36 suspend, revoke, or modify the provisions of any license, permit, or certification issued
37 under sections 281.010 to 281.115 if it finds that the applicant or holder of such license,
38 permit, or certification has violated any provision of this section or any regulation issued
39 hereunder.

40 7. The department shall require any manufacturer of a volatile compound
41 including, but not limited to, dicamba to provide training and certification, either in person
42 or online, to individuals utilizing such products on the proper use of such products. The
43 manufacturer shall keep accurate records of individuals trained and certified and provide
44 a copy of certification to such individuals. In order to utilize such product, an individual
45 shall have completed the training and certification provided by the manufacturer and shall
46 possess a valid certification of such completion prior to purchasing and utilizing such
47 volatile compound.

48 8. The department may promulgate rules to implement the provisions of this
49 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
50 created under the authority delegated in this section shall become effective only if it
51 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
52 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
53 vested with the general assembly pursuant to chapter 536 to review, to delay the effective

54 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
55 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,**
56 **shall be invalid and void.**

Section B. Because immediate action is necessary to ensure the vitality of the agricultural
2 industry in this state by preventing the devastating effects of the misuse of herbicides, the
3 enactment of section 281.120 of section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the enactment of section 281.120 of
6 section A of this act shall be in full force and effect upon its passage and approval.

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