

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 662
99TH GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Food Production and Outdoor Resources, March 13, 2017, with recommendation that the Senate Committee Substitute do pass.

0071S.08C

ADRIANE D. CROUSE, Secretary.

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
2 section, to be known as section 281.120, to read as follows:

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

3 **(1) "Department", the department of agriculture;**

4 **(2) "Field", agricultural land, including any vegetation thereon,
5 which is operated as part of a farm and which is separated from the
6 rest of the farm by permanent boundaries including, but not limited to,
7 fences, permanent waterways, woodlands, croplines not subject to
8 change due to farming practices, and other similar features;**

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

11 **(4) "Labeled", the same as "label and labeling" is defined under
12 section 281.220.**

13 **2. If the department determines, after inquiry and opportunity
14 for a hearing, that any person has knowingly used, as the term "use" is
15 defined in section 281.020, a herbicide for a crop for which the
16 herbicide was not labeled for use, which resulted in the herbicide
17 drifting or coming into contact with another person's field, onto
18 another person's personal property, onto another person's real
19 property, or onto another person, which resulted in damage, the**

20 department shall have the authority to assess a civil penalty of not
21 more than ten thousand dollars for each violation. If a person has
22 violated the provisions of this subsection in two consecutive years or
23 in two of the last three years, he or she shall be considered a chronic
24 violator, and the department shall have the authority to assess a civil
25 penalty of not more than twenty-five thousand dollars for each
26 violation.

27 3. During an active complaint investigation, the department may
28 subpoena witnesses and compel the production of records, including
29 but not limited to, books, documents, and certification records of any
30 person relating to the person's application of any herbicide to any field.
31 If a person refuses to submit such information, the department may
32 assess a civil penalty of up to five thousand dollars.

33 4. Any person who is penalized under the provisions of this
34 section shall be liable for any reasonable costs associated with the
35 department's investigation and shall remit such costs to the
36 department, not to exceed the department's actual investigative
37 expenses.

38 5. Any penalty collected under this section shall be remitted to
39 the school district in which the violation occurred. If a person
40 penalized under this section fails to pay the penalty or comply with a
41 lawful subpoena issued under subsection 3 of this section, the
42 department may apply to the circuit court of Cole County for, and the
43 court is authorized to enter, an order enforcing the assessed penalty.

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

50 7. The department may promulgate rules to implement the
51 provisions of this section. Any rule or portion of a rule, as that term is
52 defined in section 536.010, that is created under the authority delegated
53 in this section shall become effective only if it complies with and is
54 subject to all of the provisions of chapter 536 and, if applicable, section
55 536.028. This section and chapter 536 are nonseverable, and if any of
56 the powers vested with the general assembly pursuant to chapter 536

57 **to review, to delay the effective date, or to disapprove and annul a rule**
58 **are subsequently held unconstitutional, then the grant of rulemaking**
59 **authority and any rule proposed or adopted after August 28, 2017, shall**
60 **be invalid and void.**

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

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