

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 662

## 99TH GENERAL ASSEMBLY

0071S.08T

2017

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### 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.

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

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

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

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

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

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

10 **2. If the department determines, after inquiry and opportunity for a hearing, that**  
11 **any person has knowingly used, as the term "use" is defined in section 281.020, a herbicide**  
12 **for a crop for which the herbicide was not labeled for use, which resulted in the herbicide**  
13 **drifting or coming into contact with another person's field, onto another person's personal**  
14 **property, onto another person's real property, or onto another person, which resulted in**  
15 **damage, the department shall have the authority to assess a civil penalty of not more than**

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.

16 **ten thousand dollars for each violation. If a person has violated the provisions of this**  
17 **subsection in two consecutive years or in two of the last three years, he or she shall be**  
18 **considered a chronic violator, and the department shall have the authority to assess a civil**  
19 **penalty of not more than twenty-five thousand dollars for each violation.**

20 **3. During an active complaint investigation, the department may subpoena**  
21 **witnesses and compel the production of records, including but not limited to, books,**  
22 **documents, and certification records of any person relating to the person's application of**  
23 **any herbicide to any field. If a person refuses to submit such information, the department**  
24 **may assess a civil penalty of up to five thousand dollars.**

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

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

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

38 **7. The department may promulgate rules to implement the provisions of this**  
39 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
40 **created under the authority delegated in this section shall become effective only if it**  
41 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
42 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
43 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
44 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
45 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,**  
46 **shall be invalid and void.**

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