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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1450

02/22/2021 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; increasing the gross sales fee for dicamba herbicides;
1.3 establishing a dicamba compensation program; amending Minnesota Statutes 2020,
1.4 section 18B.26, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.5 chapter 18B.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [18B.052] DICAMBA COMPENSATION ACCOUNT.

1.8 A dicamba compensation account is established in the agricultural fund. Money in the
1.9 account, including interest, is appropriated to the commissioner for purposes of the dicamba
1.10 compensation program under section 18B.057.

1.11 Sec. 2. [18B.057] DICAMBA COMPENSATION PROGRAM.

1.12 Subdivision 1. Compensation required. (a) The commissioner must establish a program
1.13 to compensate those harmed by another person's application of a dicamba pesticide product.

1.14 (b) Except as provided in this section, compensation awarded under this section is equal
1.15 to the reasonable and documented damages and costs incurred by the person harmed, as
1.16 determined by the commissioner in consultation with academic and other experts.

1.17 (c) Eligible damages and costs must exceed \$100 per application event. In any fiscal
1.18 year, a person may receive no more than \$20,000 in compensation from the commissioner
1.19 for all eligible claims under this section.

1.20 Subd. 3. Claim form. The person harmed must file a claim on forms provided by the
1.21 commissioner and available on the Department of Agriculture's website.

2.1 Subd. 4. **Determination.** Before awarding compensation under this section, the
2.2 commissioner must determine that the claimant's costs and damages were caused by another
2.3 person's application of dicamba pesticide on real property that is not owned or operated by
2.4 the claimant.

2.5 Subd. 5. **Claim denial.** (a) If the commissioner denies a claim under this section, the
2.6 commissioner must issue a written decision based upon the available evidence. The decision
2.7 must specify the facts upon which the decision is based and the commissioner's conclusions
2.8 on the material issues of the claim. The commissioner must mail a copy of the decision to
2.9 the claimant.

2.10 (b) The commissioner's denial of a claim filed under this section is not subject to the
2.11 contested case review procedures of chapter 14, but may be reviewed upon a trial de novo
2.12 in the county where the damage occurred. The decision of the court may be appealed as in
2.13 other civil cases. Review in court may be obtained by filing a petition for review with the
2.14 administrator of the court within 60 days following receipt of a decision under this section.
2.15 Upon the filing of a petition, the administrator must mail a copy to the commissioner and
2.16 set a time for hearing within 90 days of the filing.

2.17 Subd. 6. **Reduction required.** The commissioner must reduce compensation paid under
2.18 this section in an amount equal to all compensation received by the claimant from any other
2.19 source including insurance and court judgments.

2.20 Sec. 3. Minnesota Statutes 2020, section 18B.26, subdivision 3, is amended to read:

2.21 **Subd. 3. **Registration application and gross sales fee.** (a) For an agricultural pesticide,**
2.22 **a registrant shall pay an annual registration application fee for each agricultural pesticide**
2.23 **of \$350. The fee is due by December 31 preceding the year for which the application for**
2.24 **registration is made. The fee is nonrefundable.**

2.25 **(b) For a nonagricultural pesticide, a registrant shall pay a minimum annual registration**
2.26 **application fee for each nonagricultural pesticide of \$350. The fee is due by December 31**
2.27 **preceding the year for which the application for registration is made. The fee is**
2.28 **nonrefundable. If the registrant's annual gross sales of the nonagricultural pesticide exceeded**
2.29 **\$70,000 in the previous calendar year, the registrant shall pay, in addition to the \$350**
2.30 **minimum fee, a fee equal to 0.5 percent of that portion of the annual gross sales over \$70,000.**
2.31 **For purposes of this subdivision, gross sales includes both nonagricultural pesticide sold in**
2.32 **the state and nonagricultural pesticide sold into the state for use in this state. No additional**
2.33 **fee is required if the fee due amount based on percent of annual gross sales of a**
2.34 **nonagricultural pesticide is less than \$10. The registrant shall secure sufficient sales**

3.1 information of nonagricultural pesticides distributed into this state from distributors and
3.2 dealers, regardless of distributor location, to make a determination. Sales of nonagricultural
3.3 pesticides in this state and sales of nonagricultural pesticides for use in this state by
3.4 out-of-state distributors are not exempt and must be included in the registrant's annual report,
3.5 as required under paragraph (g), and fees shall be paid by the registrant based upon those
3.6 reported sales. Sales of nonagricultural pesticides in the state for use outside of the state are
3.7 exempt from the gross sales fee in this paragraph if the registrant properly documents the
3.8 sale location and distributors. A registrant paying more than the minimum fee shall pay the
3.9 balance due by March 1 based on the gross sales of the nonagricultural pesticide by the
3.10 registrant for the preceding calendar year. A pesticide determined by the commissioner to
3.11 be a sanitizer or disinfectant is exempt from the gross sales fee.

3.12 (c) For agricultural pesticides, a licensed agricultural pesticide dealer or licensed pesticide
3.13 dealer shall pay a gross sales fee of 0.55 percent of annual gross sales of the agricultural
3.14 pesticide in the state and the annual gross sales of the agricultural pesticide sold into the
3.15 state for use in this state. If the agricultural pesticide is a dicamba product, a licensed
3.16 agricultural pesticide dealer or licensed pesticide dealer shall pay an additional gross sales
3.17 fee of 0.1 percent of annual gross sales of the pesticide in the state and the annual gross
3.18 sales of the pesticide sold into the state for use in this state. Notwithstanding section 18B.05,
3.19 the commissioner must deposit revenue from the additional 0.1 percent gross sales fee in
3.20 the dicamba compensation account in section 18B.052.

3.21 (d) In those cases where a registrant first sells an agricultural pesticide in or into the
3.22 state to a pesticide end user, the registrant must first obtain an agricultural pesticide dealer
3.23 license and is responsible for payment of the annual gross sales fee under paragraph (c),
3.24 record keeping under paragraph (i), and all other requirements of section 18B.316.

3.25 (e) If the total annual revenue from fees collected in fiscal year 2011, 2012, or 2013, by
3.26 the commissioner on the registration and sale of pesticides is less than \$6,600,000, the
3.27 commissioner, after a public hearing, may increase proportionally the pesticide sales and
3.28 product registration fees under this chapter by the amount necessary to ensure this level of
3.29 revenue is achieved. The authority under this section expires on June 30, 2014. The
3.30 commissioner shall report any fee increases under this paragraph 60 days before the fee
3.31 change is effective to the senate and house of representatives agriculture budget divisions.

3.32 (f) An additional fee of 50 percent of the registration application fee must be paid by
3.33 the applicant for each pesticide to be registered if the application is a renewal application
3.34 that is submitted after December 31.

4.1 (g) A registrant must annually report to the commissioner the amount, type and annual
4.2 gross sales of each registered nonagricultural pesticide sold, offered for sale, or otherwise
4.3 distributed in the state. The report shall be filed by March 1 for the previous year's
4.4 registration. The commissioner shall specify the form of the report or approve the method
4.5 for submittal of the report and may require additional information deemed necessary to
4.6 determine the amount and type of nonagricultural pesticide annually distributed in the state.
4.7 The information required shall include the brand name, United States Environmental
4.8 Protection Agency registration number, and amount of each nonagricultural pesticide sold,
4.9 offered for sale, or otherwise distributed in the state, but the information collected, if made
4.10 public, shall be reported in a manner which does not identify a specific brand name in the
4.11 report.

4.12 (h) A licensed agricultural pesticide dealer or licensed pesticide dealer must annually
4.13 report to the commissioner the amount, type, and annual gross sales of each registered
4.14 agricultural pesticide sold, offered for sale, or otherwise distributed in the state or into the
4.15 state for use in the state. The report must be filed by January 31 for the previous year's sales.
4.16 The commissioner shall specify the form, contents, and approved electronic method for
4.17 submittal of the report and may require additional information deemed necessary to determine
4.18 the amount and type of agricultural pesticide annually distributed within the state or into
4.19 the state. The information required must include the brand name, United States Environmental
4.20 Protection Agency registration number, and amount of each agricultural pesticide sold,
4.21 offered for sale, or otherwise distributed in the state or into the state.

4.22 (i) A person who registers a pesticide with the commissioner under paragraph (b), or a
4.23 registrant under paragraph (d), shall keep accurate records for five years detailing all
4.24 distribution or sales transactions into the state or in the state and subject to a fee and surcharge
4.25 under this section.

4.26 (j) The records are subject to inspection, copying, and audit by the commissioner and
4.27 must clearly demonstrate proof of payment of all applicable fees and surcharges for each
4.28 registered pesticide product sold for use in this state. A person who is located outside of
4.29 this state must maintain and make available records required by this subdivision in this state
4.30 or pay all costs incurred by the commissioner in the inspecting, copying, or auditing of the
4.31 records.

4.32 (k) The commissioner may adopt by rule regulations that require persons subject to audit
4.33 under this section to provide information determined by the commissioner to be necessary
4.34 to enable the commissioner to perform the audit.

- 5.1 (l) A registrant who is required to pay more than the minimum fee for any pesticide
5.2 under paragraph (b) must pay a late fee penalty of \$100 for each pesticide application fee
5.3 paid after March 1 in the year for which the license is to be issued.