

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2727

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| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|---|
| 03/17/2014 | 6282 | Introduction and first reading Referred to Jobs, Agriculture and Rural Development |
| 03/27/2014 | 6954a | Comm report: To pass as amended and re-refer to Finance |

A bill for an act

relating to pesticides; providing compensation for bee deaths caused by pesticide poisoning under certain circumstances; authorizing a pollinator emergency response team; establishing pollinator bank; requiring a report; appropriating money; amending Minnesota Statutes 2012, sections 18B.01, by adding subdivisions; 18B.03, by adding a subdivision; 18B.04; 85A.02, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 18B.

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

Section 1. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision to read:

Subd. 1c. **Apiary.** "Apiary" means a place where a collection of one or more hives or colonies of bees or the nuclei of bees are kept.

Sec. 2. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision to read:

Subd. 2a. **Bee.** "Bee" means any stage of the common honeybee, *Apis mellifera* (L).

Sec. 3. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision to read:

Subd. 2b. **Bee owner.** "Bee owner" means a person who owns an apiary.

Sec. 4. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision to read:

Subd. 4c. **Colony.** "Colony" means the aggregate of worker bees, drones, the queen, and developing young bees living together as a family unit in a hive or other dwelling.

2.1 Sec. 5. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 11a. **Hive.** "Hive" means a frame hive, box hive, box, barrel, log gum, skep,
2.4 or any other receptacle or container, natural or artificial, or any part of one, which is
2.5 used as domicile for bees.

2.6 Sec. 6. Minnesota Statutes 2012, section 18B.01, is amended by adding a subdivision
2.7 to read:

2.8 Subd. 20a. **Pollinator.** "Pollinator" means an insect that pollinates flowers.

2.9 Sec. 7. Minnesota Statutes 2012, section 18B.03, is amended by adding a subdivision
2.10 to read:

2.11 Subd. 4. **Pollinators.** The commissioner may take enforcement action under
2.12 chapter 18D for a violation of this chapter, or any rule adopted under this chapter,
2.13 that results in harm to pollinators, including but not limited to applying a product in
2.14 a manner inconsistent with the product's label or labeling and resulting in pollinator
2.15 death or willfully applying pesticide in a manner inconsistent with the product label or
2.16 labeling. The commissioner must deposit any penalty collected under this subdivision in
2.17 the pesticide regulatory account in section 18B.05.

2.18 Sec. 8. Minnesota Statutes 2012, section 18B.04, is amended to read:

2.19 **18B.04 PESTICIDE IMPACT ON ENVIRONMENT.**

2.20 (a) The commissioner shall:

2.21 (1) determine the impact of pesticides on the environment, including the impacts on
2.22 surface water and groundwater in this state;

2.23 (2) develop best management practices involving pesticide distribution, storage,
2.24 handling, use, and disposal; and

2.25 (3) cooperate with and assist other state agencies and local governments to protect
2.26 public health, pollinators, and the environment from harmful exposure to pesticides.

2.27 (b) The commissioner may assemble a pollinator emergency response team of
2.28 experts under section 16C.10, subdivision 2, to consult in the investigation of pollinator
2.29 deaths or illnesses. The pollinator emergency response team may include representatives
2.30 from local, state, and federal agencies; academia, including the University of Minnesota;
2.31 or other professionals as deemed necessary by the commissioner.

3.1 Sec. 9. **[18B.055] COMPENSATION FOR BEES KILLED BY PESTICIDE;**
3.2 **APPROPRIATION.**

3.3 Subdivision 1. **Compensation required.** (a) The commissioner of agriculture must
3.4 compensate a person for an acute pesticide poisoning resulting in the death of bees or loss
3.5 of bee colonies owned by the person, provided:

3.6 (1) the person who applied the pesticide cannot be determined;

3.7 (2) the person who applied the pesticide did so in a manner consistent with the
3.8 pesticide product's label or labeling; or

3.9 (3) the person who applied the pesticide did so in a manner inconsistent with the
3.10 pesticide product's label or labeling.

3.11 (b) Except as provided in this section, the bee owner is entitled to the fair market
3.12 value of the dead bees and bee colonies losses as determined by the commissioner upon
3.13 recommendation by academic experts and bee keepers. In any fiscal year, a bee owner
3.14 must not be compensated for a claim that is less than \$100 or compensated more than
3.15 \$20,000 for all eligible claims.

3.16 (c) To be eligible for compensation under this section, the bee owner must be
3.17 registered with a commonly utilized pesticide registry program, as designated by the
3.18 commissioner of agriculture.

3.19 Subd. 2. **Applicator responsible.** In the event a person applies a pesticide in a
3.20 manner inconsistent with the pesticide product's label or labeling requirements as approved
3.21 by the commissioner and is determined to have caused the acute pesticide poisoning of bees,
3.22 resulting in death or loss of a bee colony kept for commercial purposes, then the person so
3.23 identified must bear the responsibility of restitution for the value of the bees to the owner.
3.24 In these cases the commissioner must not provide compensation as provided in this section.

3.25 Subd. 3. **Claim form.** The bee owner must file a claim on forms provided by the
3.26 commissioner and available on the Department of Agriculture's Web site.

3.27 Subd. 4. **Determination.** The commissioner must determine whether the death of
3.28 the bees or loss of bee colonies was caused by an acute pesticide poisoning, whether the
3.29 pesticide applicator can be determined, and whether the pesticide applicator applied the
3.30 pesticide product in a manner consistent with the pesticide product's label or labeling.

3.31 Subd. 5. **Payments; denial of compensation.** (a) If the commissioner determines
3.32 the bee death or loss of bee colony was caused by an acute pesticide poisoning and
3.33 either the pesticide applicator cannot be determined or the pesticide applicator applied
3.34 the pesticide product in a manner consistent with the pesticide product's label or labeling,
3.35 the commissioner may award compensation from the pesticide regulatory account. If the
3.36 pesticide applicator can be determined and the applicator applied the pesticide product

4.1 in a manner inconsistent with the product's label or labeling, the commissioner may
4.2 collect a penalty from the pesticide applicator sufficient to compensate the bee owner
4.3 for the fair market value of the dead bees and bee colonies losses, and must award the
4.4 money to the bee owner.

4.5 (b) If the commissioner denies compensation claimed by a bee owner under this
4.6 section, the commissioner must issue a written decision based upon the available evidence.
4.7 The decision must include specification of the facts upon which the decision is based and
4.8 the conclusions on the material issues of the claim. The commissioner must mail a copy
4.9 of the decision to the bee owner.

4.10 (c) A decision to deny compensation claimed under this section is not subject to the
4.11 contested case review procedures of chapter 14, but may be reviewed upon a trial de
4.12 novo in a court in the county where the loss occurred. The decision of the court may be
4.13 appealed as in other civil cases. Review in court may be obtained by filing a petition for
4.14 review with the administrator of the court within 60 days following receipt of a decision
4.15 under this section. Upon the filing of a petition, the administrator must mail a copy to the
4.16 commissioner and set a time for hearing within 90 days of the filing.

4.17 Subd. 6. **Deduction from payment.** The commissioner must reduce payments
4.18 made under this section by any compensation received by the bee owner for dead bees and
4.19 bee colonies losses as proceeds from an insurance policy or from another source.

4.20 Subd. 7. **Appropriation.** The amount necessary to pay claims under this section,
4.21 not to exceed \$150,000 per fiscal year, is appropriated from the pesticide regulatory
4.22 account in section 18B.05.

4.23 Sec. 10. Minnesota Statutes 2012, section 85A.02, subdivision 2, is amended to read:

4.24 Subd. 2. **Zoological Garden.** The board shall acquire, construct, equip, operate
4.25 and maintain the Minnesota Zoological Garden at a site in Dakota County legally
4.26 described in Laws 1975, chapter 382, section 12. The Zoological Garden shall consist
4.27 of adequate facilities and structures for the collection, habitation, preservation, care,
4.28 exhibition, examination or study of wild and domestic animals, including, but not limited
4.29 to mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks. The board
4.30 may provide such lands, buildings and equipment as it deems necessary for parking,
4.31 transportation, entertainment, education or instruction of the public in connection with
4.32 such Zoological Garden. The Zoological Garden is the official pollinator bank for the state
4.33 of Minnesota. For purposes of this subdivision, "pollinator bank" means a program to
4.34 avert the extinction of pollinator species by cultivating insurance breeding populations.

5.1 Sec. 11. **BEE VALUATION PROTOCOL REQUIRED.**

5.2 No later than January 1, 2015, the commissioner of agriculture must report to
5.3 the house of representatives and senate committees with jurisdiction over agriculture
5.4 finance the protocol that the commissioner developed, in consultation with experts, for
5.5 determining the fair market value of bees, hives, colonies, apiaries, and queen apiaries for
5.6 purposes of compensation under Minnesota Statutes, section 18B.055.

5.7 Sec. 12. **APPROPRIATION.**

5.8 \$100,000 in fiscal year 2015 is appropriated from the general fund to the
5.9 commissioner of agriculture to compensate the pollinator emergency response team
5.10 authorized in Minnesota Statutes, section 18B.04.