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# State of Minnesota

## HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

# H. F. No. 1292

02/18/2019 Authored by Hansen, Tabke, Ecklund and Lippert

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

03/11/2019 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to natural resources; enhancing monetary penalties for certain unlawful

1.3 pesticide applications; amending Minnesota Statutes 2018, section 18B.07,

1.4 subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 18D.

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

1.6 Section 1. Minnesota Statutes 2018, section 18B.07, subdivision 2, is amended to read:

1.7 Subd. 2. **Prohibited pesticide use.** (a) A person may not use, store, handle, distribute,

1.8 or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in

1.9 a manner:

1.10 (1) that is inconsistent with a label or labeling as defined by FIFRA;

1.11 (2) that endangers humans, damages agricultural products, food, livestock, fish, or

1.12 wildlife; or

1.13 (3) that will cause unreasonable adverse effects on the environment.

1.14 (b) A person may not direct a pesticide onto property beyond the boundaries of the target

1.15 site. A person may not apply a pesticide resulting in damage to adjacent property. A person

1.16 who applies a pesticide resulting in damage to adjacent property that is part of the state

1.17 outdoor recreation system is subject to enhanced monetary penalties as provided in section

1.18 18D.40.

1.19 (c) A person may not directly apply a pesticide on a human by overspray or target site

1.20 spray, except when:

1.21 (1) the pesticide is intended for use on a human;

2.1 (2) the pesticide application is for mosquito control operations;

2.2 (3) the pesticide application is for control of gypsy moth, forest tent caterpillar, or other  
2.3 pest species, as determined by the commissioner, and the pesticide used is a biological  
2.4 agent; or

2.5 (4) the pesticide application is for a public health risk, as determined by the commissioner  
2.6 of health, and the commissioner of health, in consultation with the commissioner of  
2.7 agriculture, determines that the application is warranted based on the commissioner's  
2.8 balancing of the public health risk with the risk that the pesticide application poses to the  
2.9 health of the general population, with special attention to the health of children.

2.10 (d) For pesticide applications under paragraph (c), clause (2), the following conditions  
2.11 apply:

2.12 (1) no practicable and effective alternative method of control exists;

2.13 (2) the pesticide is among the least toxic available for control of the target pest; and

2.14 (3) notification to residents in the area to be treated is provided at least 24 hours before  
2.15 application through direct notification, posting daily on the treating organization's website,  
2.16 if any, and by sending a broadcast e-mail to those persons who request notification of such,  
2.17 of those areas to be treated by adult mosquito control techniques during the next calendar  
2.18 day. For control operations related to human disease, notice under this paragraph may be  
2.19 given less than 24 hours in advance.

2.20 (e) For pesticide applications under paragraph (c), clauses (3) and (4), the following  
2.21 conditions apply:

2.22 (1) no practicable and effective alternative method of control exists;

2.23 (2) the pesticide is among the least toxic available for control of the target pest; and

2.24 (3) notification of residents in the area to be treated is provided by direct notification  
2.25 and through publication in a newspaper of general circulation within the affected area.

2.26 (f) For purposes of this subdivision, "direct notification" may include mailings, public  
2.27 meetings, posted placards, neighborhood newsletters, or other means of contact designed  
2.28 to reach as many residents as possible. Public meetings held to meet this requirement for  
2.29 adult mosquito control, under paragraph (d), must be held within each city or town where  
2.30 the pesticide treatments are to be made, at a time and location that is convenient for residents  
2.31 of the area where the treatments will occur.

3.1 (g) A person may not apply a pesticide in a manner so as to expose a worker in an  
3.2 immediately adjacent, open field.

3.3 (h) Notwithstanding that the application is done in a manner consistent with the label  
3.4 or labeling, it is a violation of this chapter to directly apply a pesticide to a site where an  
3.5 application has not been: (1) requested, ordered, contracted for, or permitted; or (2) performed  
3.6 pursuant to paragraph (c), clause (2), (3), or (4).

3.7 Sec. 2. **[18D.40] ENHANCED PENALTIES; OUTDOOR RECREATION LANDS.**

3.8 Notwithstanding limitations placed on administrative or civil penalty amounts under  
3.9 sections 18D.315 and 18D.325, a person who applies a pesticide resulting in damage to  
3.10 adjacent land that is part of the state outdoor recreation system is subject to a monetary  
3.11 penalty equal to twice the amount that the commissioner would otherwise assess for a  
3.12 comparable violation.