



Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 1294

Hearing Date: February 5, 2002

Committee On: Agriculture

Introducer(s): (Preister)

Title: Adopt the Pesticide Notification Act

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

8	Yes	Senators Burling, Chambers, Cunningham, Dierks, Erdman, Schimek, Schrock, Vrtiska
0	No	
0	Present, not voting	
0	Absent	

Proponents:

Senator Don Preister, #5
Kenneth C. Winston

Representing:

Introducer
Sierra Club of Nebraska

Opponents:

Ken Svoboda
Craig O'Connor
Vic McCarty
Pat Ptacek
Korby Gilbertson

Representing:

Nebraska Professional Lawn Care Association
Omaha Grounds Maintenance Association
Nebraska Pest Control Association
Nebraska Grain & Feed Association
Nebraska Realtors Association
Nebraska State Cemetery Association
Nebraska Cooperative Council
Self

Neutral:

Rich Reiman

Representing:

Nebraska Department of Agriculture

Summary of purpose and/or changes:

LB 1294 Adopts the Pesticide Notification Act. The bill enacts new provisions of law distinct and separate from the Pesticide Act to require advance notification to adjacent property owners for lawn and

turf pesticide application, and to building occupants and visitors for structural pesticide applications. The bill assigns duties to the Department of Agriculture to promulgate and enforce rules and regulations to implement standards for advance notification of impending pesticide treatment and posting of premises where treatment has occurred

SECTION BY SECTION SUMMARY:

Section 1: Title section – Names the Act the Pesticide Notification Act

Section 2: Definitions section –

Section 3: Requires retail businesses selling pesticides for lawn applications to post a sign meeting requirements of local ordinances adopted pursuant to section 10, generally advising customers of the notification requirements of the act.

Section 4: Requires any person or business making a commercial lawn application to supply 48-hour written notice to occupants of dwellings on abutting property within 150 feet of the application site. (Abutting property is a defined term meaning property with common boundary points). Notification shall be by personal service to occupants of dwellings or to the owner or agent of a multi-family dwelling who shall give notice to individual residents. Notice to occupants of non-dwelling structures shall be posted on the premises by the building owner, agent or other person in charge of the building.

Section 5: Excludes certain types of applications from the notification requirements of section 4 of the Act. These include generally common household pesticide applications, use of certain types of products and methods of application, and emergency applications provided a report is given to department of emergency application.

Section 6: Requires persons performing residential lawn applications treating areas of greater than 100 square feet to affix markers meeting prescribed standards as to conspicuity to the property 24 hours before application, with markers remaining through the application date and 48 hours after application.

Section 7: Requires the Department of Agriculture to review reports of emergency applications submitted pursuant to section 5 to ensure emergency use was warranted. Such reports are to be kept 3 years and be available to any person on request.

Section 8 & 9: Sections 8 and 9 impose a duty upon building operators to post notice on and within premises of public buildings of impending restricted use pesticide treatment at least 48 hours prior to treatment or to permanently display notices if treatments are on periodic and regular schedule. Building operators are to retain records of treatment products used for treatment (5 year retention) and provide information about the pesticides used upon request. Pesticide retailers are required to provide proper markers and signage that may be used by building operators.

Section 10: Directs the Department of Agriculture to adopt rules and regulations prescribing standards for meeting notification requirements of the act, including a) signage posted in retail establishments pursuant to Section 3, b) content and form of written notices required under section 4 of the Act, and c) the manner of providing advance notification. Such regulations may prescribe means for persons who do not wish to be notified to decline future notices.

Section 11: Provides that persons violating the Act or local ordinances adopted pursuant to the Act are subject to civil penalty up to \$500 for each offense, restraining order or injunction. Assigns jurisdiction for requests for injunctive relief to district court of county where violation has occurred. Assigns duty to

Attorney General or county attorney to seek injunctive relief. Provides that civil fines assessed constitute debt to the state recoverable in lien foreclosure or in civil action. Actions may be brought within 2 years after alleged violation or 2 years from date of knowledge of violation. Any fines collected are remitted to the permanent school fund.

Section 12: Severability clause

Explanation of amendments, if any:

Senator Merton L. Dierks, Chairperson