

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER
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DESCRIPTION

2228

2007 SENATE AGRICULTURE

SB 2228

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2228

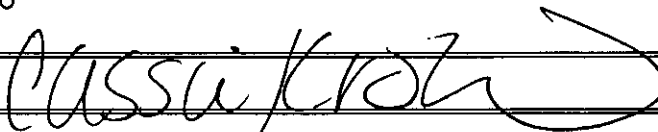
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3196

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened the hearing on SB 2228, a bill relating to reports of loss incurred through pesticide application, Members (6) were present, 1 absent- **Sen. Heckaman**.

**Gerald Thompson**, pesticide enforcement coordinator for the ND department of Ag, testified in favor of the bill. See attached testimony.

**Sen. Klein**- I think that everyone in the audience understands that the bill in the book is no longer the bill that was introduced, I passed out the amendments to everyone and they are really the bill now. See attached amendments.

**Miles Benz**, rancher, testified in favor of the bill.

**Miles Benz**- I farm and ranch south of Steele, I am here to support the bill. (gave personal experience that he had with spraying, time 10:56-16:07)

**Sen. Behm**- were you still charged for the application?

**Miles Benz**- yes, plus interest at 18%.

**Sen. Klein**- do you think that in the amendments there is a 60 period to fill do you think that 30 days would work, how quickly did you realize you had trouble?

**Miles Benz**- I think any notice would be ok as long as you were aware of it, I wasn't aware of any notice that needed to be filed. I noticed with my crop within a week.

**Sen. Taylor-** I was wondering about the other provision of knowing that 10% of your crop is damaged, you obviously knew you had a severe loss?

**Miles Benz-** yes.

**Sen. Behm-** did you try and contact the chemical company, would they give you any help?

**Miles Benz-** I contacted them right away and that is when I was informed to contact the applicator.

**Sen. Wanzek-** do you know how it applies to misapplication of a neighboring farmer? Would this law apply to that or does it only apply to licensed applicators?

**Miles Benz-** I think you could work out a deal with the farmer, I am not sure how that would work.

**Sen. Wanzek-** do you still do business with this applicator?

**Miles Benz-** no.

**Cindy Schreiber-Beck,** executive director of the ND agricultural aviation association, testified in favor of the bill. See attached testimony.

**Sen. Taylor-** on the desire to go to three days, are we always going to know a loss within 3 days?

**Cindy Schreiber-Beck-** it isn't from the date of application that the notification occurs, it is from the date that you observe there may or may not be damage.

**Sen. Klein-** from the point I notice damage, is that where the 3 day thing comes into place? Who would know when the 3 days started?

**Cindy Schreiber-Beck-** that is what we have to come up with, we are not sure either. The quicker the applicator would receive the notification the quicker they may be able to resolve the

issued that is why we were thinking the 3 days.

**Sen. Klein-** so what I am hearing then is that 60 is way to long and that maybe 3 is a bit short.

You talk about the certified notification the reason being?

**Cindy Schreiber-Beck-** to protect the grower to show that he had put out a application.

**Joe Killoran,** from Tower City, ND, testified in favor of the bill.

**Joe Killoran-** I am here to stand in support of this bill. The time is currently set at 60 days, that should probably be changed but it does take a lot of time to go in and verify what actually happened to the crop and who was at fault. I would agree with shortening the time up and limiting it to finding a third party or professional to come out there and do some documentation that there is a claim. That way you would have the documentation that there is a problem and that would allow you more time to go back in and figure out where the damage did come from.

The other issue that I wanted to talk about was the 10% damage to the field. I disagree with that because I think in some cases some farmers don't realize that they have a damage problem in the field until they are out there harvesting and if the damage was over on one side of the field and they happen to start on the other side of the field and work their way across 40-50% of the crop before they notice the damage. I would suggest that the bill be changed to the claim against any unharvested crop. Those are the only changes that I had to the bill.

**Dan Wogsland,** NDGGA, testified in favor of the bill.

**Dan Wogsland-** I think that these are good amendments and something that needs to be changed in the state of ND. I have serious reservations about a 3 day time frame, presently we have a 60 day time frame within the law, I seriously question whether a 3 day time frame is a good idea for producers. I would hope that the committee would take a look at that, perhaps the 30 days is a reasonable alternative. We support the bill.

**Sen. Klein-** are we going beyond reasonable if we were to eliminate any percentage?

**Dan Wogsland-** I think that the 10% is reasonable.

**Gary Knudson**, NDAA, testified in favor of the bill.

**Gary Knudson-** I would like to thank the committee on the amendments that they have come up with on this bill. There are things to clean up I think that we have made some excellent strides, I guess I am wanting to ask if we need some time to agree on final language or such. Are you going to vote on it today I guess is my question.

**Sen. Flakoll-** the bill will be out of the committee by tomorrow at noon one way or another.

**Sen. Klein-** I would certainly be able to work with the groups to try to work something else for today.

**Sen. Wanzek-** could we possibly word the 10%, that the 10% be the damaged portion of the field?

**Gary Knudson-** my point would be that the claim is only going to be good for those on harvest day cause that is all they could prove anyway. I think we should be able to get a number worked out there beyond harvested acreage.

No opposition to the bill.

Sen. Flakoll closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2228

Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3221

Committee Clerk Signature

*Cassia Kroh*

Minutes:

**Sen. Flakoll** opened discussion on SB 2228.

**Sen. Klein**- during the discussion there were a couple of issues that were brought forward, they came up with some amendments. (went over proposed amendments with committee)

**Sen. Flakoll** closed discussion.

**Sen. Klein** motioned to move amendements 70703.0102 and was seconded by **Sen. Taylor**, roll call vote 1: 6 yea, 0 nay, 1 absent.

**Sen. Klein** motioned for a do pass as amended and was seconded by **Sen. Erbele**, roll call vote 2: 6 yea, 0 nay, 1 absent.

**Sen. Klein** was designated to carry the bill to the floor.

February 6, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2228

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 4-35 of the North Dakota Century Code, relating to notification of alleged pesticide damage; and to repeal sections 4-35-21, 4-35-21.1, and 4-35-21.2, of the North Dakota Century Code, relating to reports of loss resulting from pesticide application.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

**Pesticide application - Property damage - Notification of applicator.**

1. a. Before a person may file a civil action seeking reimbursement for property damage allegedly stemming from the application of a pesticide, the person shall notify the pesticide applicator of the alleged loss within the earlier of:
  - (1) Sixty days from the date the person first knew or should have known of the alleged damage; or
  - (2) Before ten percent of the crop or field allegedly damaged is harvested or destroyed.
- b. Subdivision a does not apply if the person seeking reimbursement for property damage was the applicator of the pesticide.
2. Upon notifying the applicator as required under subsection 1, the person seeking reimbursement for property damage shall permit the applicator and up to four representatives of the applicator to enter the person's property for the purpose of observing and examining the alleged damage. If the person fails to allow entry, the person is barred from asserting a claim against the applicator.

**SECTION 2. REPEAL.** Sections 4-35-21, 4-35-21.1, and 4-35-21.2 of the North Dakota Century Code are repealed."

Renumber accordingly



*JB*  
2-8-7

PROPOSED AMENDMENTS TO SENATE BILL NO. 2228

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**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

**Pesticide application - Alleged property damage - Notification of applicator.**

1. a. Before a person may file a civil action seeking reimbursement for property damage allegedly stemming from the application of a pesticide, the person shall notify by certified mail the pesticide applicator of the alleged damage within the earlier of:
  - (1) Twenty-eight days from the date the person first knew or should have known of the alleged damage; or
  - (2) Before twenty percent of the crop or field allegedly damaged is harvested or destroyed.
- b. Subdivision a does not apply if the person seeking reimbursement for property damage was the applicator of the pesticide.
2. Upon notifying the applicator as required under subsection 1, the person seeking reimbursement for the alleged property damage shall permit the applicator and up to four representatives of the applicator to enter the person's property for the purpose of observing and examining the alleged damage. If the person fails to allow entry, the person is barred from asserting a claim against the applicator.

**SECTION 2. REPEAL.** Sections 4-35-21, 4-35-21.1, and 4-35-21.2 of the North Dakota Century Code are repealed.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: Feb 8, 2007  
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2228

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass adopt amendments

Motion Made By Klein Seconded By Taylor

70703-0102

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur H. Behm	X	
Terry M. Wanzek-Vice Chairman	X		Joan Heckaman		
Robert S. Erbele	X		Ryan M. Taylor	X	
Jerry Klein	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: Feb 8, 2007  
 Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2228

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Klein Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur H. Behm		
Terry M. Wanzek-Vice Chairman	X		Joan Heckaman		
Robert S. Erbele	X		Ryan M. Taylor		
Jerry Klein	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Klein

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2228: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2228 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 4-35 of the North Dakota Century Code, relating to notification of alleged pesticide damage; to repeal sections 4-35-21, 4-35-21.1, and 4-35-21.2 of the North Dakota Century Code, relating to reports of loss resulting from pesticide application; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 4-35 of the North Dakota Century Code is created and enacted as follows:

**Pesticide application - Alleged property damage - Notification of applicator.**

1. a. Before a person may file a civil action seeking reimbursement for property damage allegedly stemming from the application of a pesticide, the person shall notify by certified mail the pesticide applicator of the alleged damage within the earlier of:
  - (1) Twenty-eight days from the date the person first knew or should have known of the alleged damage; or
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**SECTION 2. REPEAL.** Sections 4-35-21, 4-35-21.1, and 4-35-21.2 of the North Dakota Century Code are repealed.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

2007 HOUSE AGRICULTURE

SB 2228

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SSB 2228

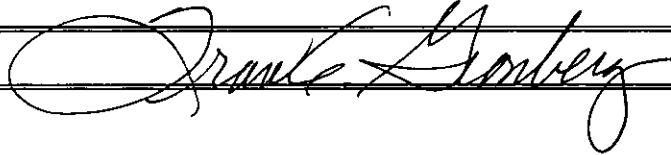
House Agriculture Committee

Check here for Conference Committee

Hearing Date: 3-8-07 am

Recorder Job Number: 4699

Committee Clerk Signature



Minutes:

**Chairman Johnson** opened the hearing on SB 2228.

**Jim Gray, Pesticide, Feed, and Fertilizer Team Leader:** (testimony attached)

**Rep Boe:** The 28 days from the first knew or should have known - how are we going to define that?

**Gray:** It's a nebulous term. I don't know. It was in the existing century code.

**Rep Mueller:** If roundup got on my sunflowers and I didn't pick up on it in 28 days and report it, I have no legal recourse to go after the pesticide applicator?

**Gray:** The way this bill would read - yes.

**Rep Vig:** Rep Mueller mentioned an herbicide. This says pesticide.

**Gray:** Pesticide includes all chemicals.

**Rep Onstad:** Going back to the 28 days - that would be the 28 days not from the day of application, but 28 days from when you recognize damage has been done.

**Gray:** That is correct.

**Senator Klein, Dist 14:** This started in my district with one of my constituents. The engrossed bill is a hog house. Everyone concerned is on board and agreed that this is a bill that is acceptable to everyone.

**Joe Killoran, Buffalo, ND owns and operates Maple Valley Ag Chemical:** (testimony attached)

**Rep Mueller:** Have you found that sometimes an application of a chemical that drifted over on to someone else's in a fairly watered down form takes a fair amount of time for the damage to be identified?

**Killoran:** Yes, it does take some time for the damage to show up and that's why we ask for 28 days. 60 days is too long.

**Rep Mueller:** "Or should have known", I'm having trouble with that in terms of the time line. That's leaving things wide open it seems to me because could you go back and say you should have known this 29 days ago. Do you see the point I'm trying to make? How as a producer am I going to deal with that issue?

**Killoran:** I agree and disagree. The reason that I wanted to leave that in there is to give the farmer and producer plenty of time.

**Froelich:** I'm fuzzy on this - who's going to know if I sat on it?

**Killoran:** Most likely someone will talk to someone and that would be the date to use. It's giving the farmer a lot of leeway.

**Rep Boe:** What if my neighbor has a custom applicator and won't tell me who it was? Can I get by by sending the landowner the notice?

**Killoran:** The way it's written - no. You would have to come in and notify the applicator or suspected applicator. Hopefully your neighbor would not withhold that information from you. There are different ways to find out who did the application. There are records taken.

**Brian Rau, Farmer/Commercial Applicator, Representing the ND Agricultural Aviation Association:** (testimony attached)

**Rep Boe:** When I hire an applicator I am jointly liable? So if someone sends me the notification within 28 days that would suffice for both of us?

**Rau:** I really can't comment on that situation. It is my understanding that both people are responsible, but how that would test this law, I can't say that that is true. The Dept of Ag can figure that out because they have enforcement procedures.

**Rep Headland:** If I hire a custom applicator and there is drift on my neighbor's field, am I responsible? I need some clarification on that. I don't believe that's the case.

**Rau:** I'm not an attorney. That's just my understanding.

**Rep Headland:** Have you ever had an instance where you've gone to the farmer who's hired you to spray his field to help you?

**Rau:** Yes, that's a good example of why you need to get a look at the field. It is my understanding that if that applicator doesn't step up to the plate and take care of it, it is a possibility that you would be liable. Again, I am not an attorney.

**John Fluth, Jamestown, Great Plains Claims:** I support the bill. As it's written now it's a nightmare. They use the 28 days because (1) chemicals break down soon after it's put down and (2) testing is very expensive. At the University of Montana, just to test one sample is \$450 and you have to send it overnight by bus or truck and you can't send it by air if you use dry ice. I do see a problem with page 1, line 11.

**Rep Brandenburg:** Who do you work for?

**Fluth:** I work for anyone. I am an independent.

**Rep Brandenburg:** What we're trying to do with this bill is make it possible to get to the problem sooner.



**Rep Onstad:** If a farmer doesn't know what is going to be seed the next year, the chemical could have a carryover. If the carryover affected it because he has half emergents, at that point he would still have the 28 days?

**Fluth:** That's the way I interpret it, but I'm not an attorney.

**Merlin Leithold, ND Wheat Association:** We're in support of this bill. It protects us and the landowner.

**Kent Albers, ND Ag Coalition:** (testimony attached)

**Chairman Johnson** closed the hearing.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2228

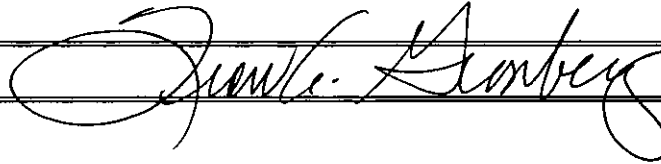
House Agriculture Committee

Check here for Conference Committee

Hearing Date: 3-8-07

Recorder Job Number: 4720

Committee Clerk Signature



Minutes:

**Chairman Johnson** reopened the hearing on SB 2228:

**Rep Froelich:** I have a problem with this bill. Before we can file a civil action, we have to go through this whole process. I'm not so sure that the courts will even take a good look at it.

And line 13 - my biggest concern is "should have known". That leaves the door wide open for an attorney.

**Rep Belter:** Did you say that we have to notify the state? It doesn't say the state.

**Rep Boe:** I think he said is are we as the state stepping into something that we shouldn't be.

**Rep Kingsbury:** People that have contact me felt that this really simplifies things so that you didn't have the state stepping in.

**Rep Boe:** I think that after the testimony, we aren't sure who should be responsible - who gets the letter?

**Chairman Johnson:** Would you like to address the question?

**Jim Gray:** First of all, the place we are right now with the report of loss form, does involve the government. This is one step closer to getting the government out of civil matters. The question was does the landowner share liability with the applicator? The term liability has

some legal baggage. According to law, from an enforcement point of view, that I as a landowner hire an applicator, I as the landowner am responsible for the applicator's actions. They are a contract worker for me. I am viewed as a business owner. As far as civil damages and bringing damages into a court, I can't answer that.

**Rep Mueller:** Does the department or agency need to stay in the loop for knowledge?

**Gray:** There are two processes here. The enforcement process is one and civil damage is the other. The report of loss form as it is now does not initiate an enforcement procedure. The individual needs to file a formal complaint with the office. The odds are that the Dept of Ag wouldn't be notified if it can be settled between two parties. Ideally, I agree with Rep. Froelich, we don't want the government involved with any of this. It's a civil matter between two parties.

**Rep Onstad:** Our other concern was in lines 13 and 14 "the 28 days that should have known". Is this the best language?

**Gray:** "Should have known" is in the existing law. Some of the applicators felt that that was needed to provide them with some leeway.

**Rep Kingsbury:** How did you arrive at 28 days?

**Gray:** It is a sufficient time for both parties.

**Rep Mueller:** The growers - who were they and how were they represented?

**Gray:** They were primarily the ND Grain Growers and their leadership.

**Rep Belter:** Having experience - this isn't a bad bill. There are protections here too. With everyone on board and agreeing to this bill, it seems like this could be a good bill.

**Chairman Johnson:** Usually you know who is doing what in a 20 mile radius.

**Rep Wall:** A 28 day window could be a protection for the farmer - correct?

**Gray:** Could be. Too long is not good.

**Rep Belter made a Do Pass motion**

**Rep Kingsbury seconded the motion**

**(yes) 7 (no) 4 (absent) 2**

**Carrier: Rep Belter**

Date:  
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House \_\_\_\_\_ Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number SB 2328

Action Taken No Pass

Motion Made By Belter Seconded By Kingsbury

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	✓		Tracy Boe		✓
Vice Chair Joyce Kingsbury	✓		Rodney Froelich		✓
Wesley Belter	✓		Phillip Mueller		✓
Mike Brandenburg			Kenton Onstad	✓	
Craig Headland			Benjamin Vig		✓
Brenda Heller	✓				
John D Wall	✓				
Gerry Uglen	✓				

Total (Yes) 7 No 4

Absent 2

Floor Assignment Rep Belter

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2007 3:43 p.m.

**Module No: HR-44-4793**  
**Carrier: Belter**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2228, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)**  
recommends **DO PASS** (7 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SB 2228 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2228

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com

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600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Gerald Thompson  
Pesticide Enforcement Coordinator  
Senate Bill 2228  
Senate Agriculture Committee  
Roosevelt Park Room  
February 8, 2007**

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Chairman Flakoll and members of the Senate Agriculture Committee, I am Gerald Thompson, Pesticide Enforcement Coordinator for the North Dakota Department of Agriculture. I am here in support of the proposed amendments to Senate Bill 2228 which will amend Sections 4-35-21, and repeal Sections 4-35-21.1, and 4-35-21.2. of the Century Code. This amendment will repeal a very confusing part of the Century Code and remove state government involvement in civil matters between parties involved in pesticide damage claims.

N.D.C.C. 4-35-21.1 and 4-35.21.2 currently require that any person alleging property damage from a pesticide application file a Verified Report of Loss with the North Dakota Department of Agriculture. This filing reserves their right to seek civil damages from the pesticide applicator anytime in the future. If the claimant fails to file the Verified Report of Loss within 60 days of knowing of the alleged damage or before 50% of the damaged field is harvested, the claimant is barred from seeking civil damages.



If the claimant speaks with the applicator and the applicator fails to tell the grower of the Report of Loss filing requirement, , the 60-day restriction does not apply. However, the 50% harvest restriction still does apply.

As it was originally introduced, SB 2228 would make it clear that both the 60-day time limit and 50% harvest restriction do not apply if the applicator or applicator's agent fails to inform the claimant of the Verified Report of Loss filing requirement. This proposed amendment goes much further and entirely eliminates the Verified Report of Loss requirement. The Department supports this change.

Once a pesticide application is made and a third party approaches the pesticide applicator or the property operator alleging that damage has occurred from the pesticide application, the current law requires the applicator to inform the third party about the Report of Loss requirement. Failure to do so could result in a monetary fine and/or loss of the applicator's certification, if they are a certified applicator. This notification requirement applies to anyone that makes a pesticide application in the State of ND, not just commercial applicators.

Section 4-35-21.1, indicates that no civil action may be filed concerning alleged property damage from a pesticide application before a Verified Report of Loss has been properly served on the pesticide applicator and the operator of the land.

As you have likely gathered, the Verified Report of Loss process is very confusing. In addition, the general public is largely unaware of the requirement that a Verified Report of Loss form must be filed to reserve their right to seek civil damages in the future.

Furthermore, the Department expends a significant amount of resources explaining the Verified Report of Loss process to applicators and growers, sending out the forms to interested parties, ensuring proper service, recording and filing the forms. However, the Department does nothing with the forms since they are independent of the process we use to investigate pesticide misuse under the Department's pesticide regulatory authority.

When I visit with pesticide applicators that are aware of the filing requirements, they feel they are at a definite disadvantage from the very beginning of the present claim process. Applicators say the very name of the document, "Verified Report of Loss" indicates that damage has already occurred and has been verified before the document is filed. That is the reason we recommend changing the name of the new Section in the amendment to "Notification of Alleged Pesticide Damage" or some title that would use the term "alleged"

The current law also requires that our Department work with these parties to ensure that proper legal service is made by the parties filing the Report of Loss. As we said before, this "Service" must be filed within 60 days of the time that the property owner alleging damage "knew or should have known" that the property damage occurred or before 50% of the crop is harvested.

As an agency, we have been battling this issue for a number of years. I have personally been dealing with these filing requirements for thirteen years. Some days, I spend my entire day working with these documents and people wanting to know, "what do I do now?" and other telephone calls associated with alleged pesticide damage issues. Other people in the Department also spend a considerable amount of their time working with these documents. Current law requires us to ensure that the documents are properly processed, meet the filing requirements and that people have proper "Service" of the documents.

For most of these documents that are filed, we struggle to get these documents filed in the proper manner. For most of the filings, we need to make follow-up telephone calls or send letters to the people who are filing these documents. As a general observation, they do not understand the Proof of Service concept so we need to follow up with most of these people several times.

Once they are completed, we send them a letter and place the documents in a file cabinet and maintain the filed documents for five years. In the thirteen years that I have been working with these documents, I can only recall a few requests for copies of the Report of Loss documents. We basically file them and forget them. After five years, we shred them.

The amended Senate Bill 2228 changes the process and places the responsibility on the applicators and the producers to settle their claims without getting the government involved in the process. The persons alleging damage must contact the applicators to settle their claims and if they cannot work out the matter, it becomes a civil matter between the two parties.

Mr. Chairman and members of the committee, we think the amended SB 2228 is good legislation and we urge a "Do Pass" on this amendment. I would be happy to answer any questions.

