

BILL ANALYSIS

Senate Research Center

H.B. 1398
By: Swinford (Duncan)
Subcommittee on Agriculture
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Engrossed

DIGEST AND PURPOSE

In 1989, the 71st Texas Legislature enacted the Texas Seed Arbitration Act (Act) to provide for an unbiased third party investigation by the State Seed and Plant Board (board) of the Texas Department of Agriculture, of complaints concerning seed performance. When a purchaser of a seed designed for planting claims to have been damaged due to a failure of the seed to produce or perform as a result of defect or negligence, the purchaser must submit a claim of defect to the board to begin the arbitration process.

The Texas Supreme Court ruled in February 2001 that, without regard to the length of time after the purchaser of seed discovered a defect in seed performance, the purchaser must only file a complaint with the board to be in compliance with the Act, in turn allowing claims to be filed against seed companies many months after actual seed performance could reasonably be determined.

H.B. 1398 designates a time period, ending the 10th day after a purchaser of seed has discovered or reasonably should have discovered a defect in the seed performance, to file a claim against the seed manufacturer or distributor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 64.002(a), Agriculture Code, to require the purchaser, when a purchaser of seed designed for planting claims to have been damaged by the failure of the seed to produce or perform as represented by warranty or by the label required to be attached to the seed under this subtitle or as a result of negligence, to submit the claim to arbitration as provided by this chapter not later than the 10th day after the date on which the purchaser discovered or reasonably should have discovered the defect as a prerequisite to the exercise of the purchaser's right to maintain a legal action against the labeler or any other seller of the seed. Deletes text regarding a reference to Section 19.9, Texas Administrative Code (4 TAC Sec. 19.9).

SECTION 2. Amends Section 64.004, Agriculture Code, as follows:

Sec. 64.004. EFFECT OF ARBITRATION. Authorizes the court to also take into account any findings of the board of arbitration with respect to the failure of any party to cooperate in the arbitration proceedings, including the arbitration board's ability to determine the facts of the case. Deletes text regarding any finding as to the effect of delay in filing the arbitration claim.

SECTION 3. Amends Section 64.006(a), Agriculture Code, to delete text regarding requiring a complaint to be filed within a certain time.

SECTION 4. Amends Chapter 64, Agriculture Code, by adding Section 64.0065, as follows:

Sec. 64.0065. EFFECT OF NONCOMPLIANCE. Authorizes the arbitration board to

dismiss a purchaser's claim to arbitration if the purchaser fails to submit the claim within the period prescribed by Section 64.002(a).

SECTION 5. Provides that Section 64.002(a), Agriculture Code, as amended by this Act, applies only to a claim to arbitration received by the arbitration board on or after September 1, 2003.

SECTION 6. Effective date: September 1, 2003.