

BILL ANALYSIS

H.B. 1398
By: Swinford
Agriculture & Livestock
Committee Report (Amended)

BACKGROUND AND PURPOSE

In 1989, the 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 which actual seed performance could reasonably be determined. The Board needs to evaluate seed performance under field conditions to properly investigate and accurately report on arbitration cases.

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, allowing the Board to complete an investigation under field conditions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1398 amends the Agriculture Code by creating a 10-day period in which a purchaser of seed must file a complaint against the seed manufacturer or distributor if the purchaser believes to have been damaged by the defective seed. This period ends on the 10th day after the purchaser discovered or reasonably should have discovered the defect.

The bill amends the Agriculture Code removing language allowing a court the ability to use Board findings concerning a delay in filing of an arbitration claim. The bill deletes a provision exempting the purchaser of seed from filing a claim in cases where a seed had not been planted. The bill creates a new section in the Agriculture Code relating to Effect of Noncompliance, establishing that the Board may dismiss a purchaser's claim if the claim is not submitted by the 10th day after which the defect is or reasonably should have been noticed. A court does not have the authority to hear an arbitration case that has been previously dismissed by the Board.

EFFECTIVE DATE

September 1, 2003.

EXPLANATION OF AMENDMENTS

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Committee Amendment #1 deletes the language in Section 64.0065, Agriculture Code, stating that a court does not have jurisdiction to hear a claim that have been previously dismissed by the Board.

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