

AN ACT

relating to procedures for arbitration of seed performance disputes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 64.002(a), Agriculture Code, is amended to read as follows:

(a) 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, the purchaser must 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 [~~as defined by Section 19.9, Texas Administrative Code (4 TAC Sec. 19.9)~~] or any other seller of the seed.

SECTION 2. Section 64.004, Agriculture Code, is amended to read as follows:

Sec. 64.004. EFFECT OF ARBITRATION. In any litigation involving a complaint that has been the subject of arbitration under this chapter, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the arbitration board's findings of

1 fact, conclusions of law, and recommendations as to damages and
2 costs as the court determines advisable. The court may also take
3 into account any findings of the board of arbitration with respect
4 to the failure of any party to cooperate in the arbitration
5 proceedings, including [~~any finding as to the effect of delay in~~
6 ~~filing the arbitration claim or~~] the arbitration board's ability to
7 determine the facts of the case.

8 SECTION 3. Section 64.006(a), Agriculture Code, is amended
9 to read as follows:

10 (a) A purchaser may begin arbitration by filing with the
11 commissioner a sworn complaint and a filing fee, as provided by
12 department rule. The purchaser shall send a copy of the complaint
13 to the seller by certified mail. [~~Except in the case of seed that~~
14 ~~has not been planted, the complaint must be filed within the time~~
15 ~~necessary to permit effective inspection of the plants under field~~
16 ~~conditions.]~~

17 SECTION 4. Chapter 64, Agriculture Code, is amended by
18 adding Section 64.0065 to read as follows:

19 Sec. 64.0065. EFFECT OF NONCOMPLIANCE. The arbitration
20 board may dismiss a purchaser's claim to arbitration if the
21 purchaser fails to submit the claim within the period prescribed by
22 Section 64.002(a).

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

26 SECTION 6. This Act takes effect September 1, 2003.

H.B. No. 1398

President of the Senate

Speaker of the House

I certify that H.B. No. 1398 was passed by the House on April 25, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1398 was passed by the Senate on May 27, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor