

1-1 By: Swinford (Senate Sponsor - Duncan) H.B. No. 1398  
1-2 (In the Senate - Received from the House April 28, 2003;  
1-3 May 1, 2003, read first time and referred to Subcommittee on  
1-4 Agriculture; May 7, 2003, reported to Committee on Natural  
1-5 Resources; May 19, 2003, reported favorably by the following vote:  
1-6 Yeas 8, Nays 0, 1 present not voting; May 19, 2003, sent to  
1-7 printer.)

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to procedures for arbitration of seed performance  
1-11 disputes.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 64.002(a), Agriculture Code, is amended  
1-14 to read as follows:

1-15 (a) When a purchaser of seed designed for planting claims to  
1-16 have been damaged by the failure of the seed to produce or perform  
1-17 as represented by warranty or by the label required to be attached  
1-18 to the seed under this subtitle or as a result of negligence, the  
1-19 purchaser must submit the claim to arbitration as provided by this  
1-20 chapter not later than the 10th day after the date on which the  
1-21 purchaser discovered or reasonably should have discovered the  
1-22 defect as a prerequisite to the exercise of the purchaser's right to  
1-23 maintain a legal action against the labeler [~~as defined by Section~~  
1-24 ~~19.9, Texas Administrative Code (4 TAC Sec. 19.9),~~] or any other  
1-25 seller of the seed.

1-26 SECTION 2. Section 64.004, Agriculture Code, is amended to  
1-27 read as follows:

1-28 Sec. 64.004. EFFECT OF ARBITRATION. In any litigation  
1-29 involving a complaint that has been the subject of arbitration  
1-30 under this chapter, any party may introduce the report of  
1-31 arbitration as evidence of the facts found in the report, and the  
1-32 court may give such weight to the arbitration board's findings of  
1-33 fact, conclusions of law, and recommendations as to damages and  
1-34 costs as the court determines advisable. The court may also take  
1-35 into account any findings of the board of arbitration with respect  
1-36 to the failure of any party to cooperate in the arbitration  
1-37 proceedings, including [~~any finding as to the effect of delay in~~  
1-38 ~~filing the arbitration claim or~~] the arbitration board's ability to  
1-39 determine the facts of the case.

1-40 SECTION 3. Section 64.006(a), Agriculture Code, is amended  
1-41 to read as follows:

1-42 (a) A purchaser may begin arbitration by filing with the  
1-43 commissioner a sworn complaint and a filing fee, as provided by  
1-44 department rule. The purchaser shall send a copy of the complaint  
1-45 to the seller by certified mail. [~~Except in the case of seed that~~  
1-46 ~~has not been planted, the complaint must be filed within the time~~  
1-47 ~~necessary to permit effective inspection of the plants under field~~  
1-48 ~~conditions.]~~

1-49 SECTION 4. Chapter 64, Agriculture Code, is amended by  
1-50 adding Section 64.0065 to read as follows:

1-51 Sec. 64.0065. EFFECT OF NONCOMPLIANCE. The arbitration  
1-52 board may dismiss a purchaser's claim to arbitration if the  
1-53 purchaser fails to submit the claim within the period prescribed by  
1-54 Section 64.002(a).

1-55 SECTION 5. Section 64.002(a), Agriculture Code, as amended  
1-56 by this Act, applies only to a claim to arbitration received by the  
1-57 board of arbitration on or after September 1, 2003.

1-58 SECTION 6. This Act takes effect September 1, 2003.

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