

217B.140 Claim of damage -- When filed ---- Statement of alleged pesticide use, contents -- Effect -- Inspection of damaged property.

- (1) Investigations into claims of pesticide misuse conducted by the department shall occur only when the applicator of the pesticide is required by this chapter and related administrative regulations to obtain a license to use pesticides.
- (2) Any person claiming pesticide misuse by a pesticide applicator shall file with the department a written statement of alleged misuse. The statement shall be submitted to the department:
 - (a) Within sixty (60) days after the date the alleged pesticide misuse occurred; or
 - (b) Prior to the time that twenty-five percent (25%) of a crop affected by pesticide misuse is harvested.
- (3) A statement of alleged pesticide misuse shall contain:
 - (a) The name of the person allegedly responsible for the pesticide application;
 - (b) The name of the person who alleges misuse of pesticide;
 - (c) The name of the owner or lessee of the land where the effects of the alleged pesticide application misuse are evident; and
 - (d) The date on which the alleged pesticide misuse occurred.
- (4) The filing of a report or the failure to file a report need not be alleged in any complaint for damages resulting from pesticide misuse which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. Failure to file a report shall not be a violation of this chapter. If the person failing to file the report is the only person injured from the misuse of a pesticide, the department may, when in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or registration issued under this chapter until the report is filed.
- (5) When pesticide misuse is alleged, the claimant shall permit the person allegedly responsible for the application of the pesticide, registration holder, and his or her representatives, such as a bondsman or insurer, to observe within reasonable hours, the lands upon which alleged effects of pesticide misuse is evident in order that the effects may be examined. Failure of the claimant to permit the observation and examination of the location of the alleged effects shall automatically bar the claim against the person allegedly responsible for the pesticide application misuse.

Effective: June 29, 2021

History: Repealed and reenacted 2021 Ky. Acts ch. 84, sec. 9, effective June 29, 2021.
-- Amended 2000 Ky. Acts ch. 172, sec. 16, effective July 14, 2000. -- Amended 1974 Ky. Acts ch. 148, sec. 13. -- Created 1972 Ky. Acts ch. 130, sec. 14.