

## Pesticide Liability Limitation

**ISSUE:** Does SDFB support legislation to limit the liability of pesticide companies in injury and product liability lawsuits?

**OVERVIEW:** In recent years, lawsuits have been filed by individuals who have claimed that exposure to a pesticide product caused them to develop an injury or illness such as cancer. The most high-profile cases involve glyphosate, the main ingredient in Roundup that plaintiffs argue caused non-Hodgkin's lymphoma. As a result of these lawsuits, Bayer has been ordered to pay out billions of dollars to plaintiffs who claim the product has caused cancer.

Litigation against pesticide manufacturers, such as those producing Roundup, often hinges on state "failure to warn" laws. Plaintiffs argue these companies did not adequately warn consumers about potential health risks from normal product use. For example, claims made suggest that Bayer failed to warn about a link between glyphosate and cancer. Manufacturers also counter that pesticides are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which requires EPA approval of all product labels. FIFRA prohibits states from imposing label requirements beyond the federal standard, and the EPA's approval includes a human health risk assessment and carcinogenicity review.

Moreover, in 2025, nine states considered enacting legislation that would limit the liability for pesticide manufacturers facing failure to warn lawsuits. Those states include North Dakota, Florida, Georgia, Iowa, Missouri, Wyoming, Oklahoma, and Tennessee.

### CONSIDERATIONS:

- Of the multitude of states that brought legislation to address this issue, only Georgia and North Dakota have passed the legislation out of both chambers. At the time of this writing, only North Dakota's bill was signed into law.
- Pesticide liability lawsuits are extremely costly to the pesticide industry. For example, in Georgia, a jury recently awarded the plaintiff in a pesticide injury lawsuit \$2.065 billion.
- Currently, 80% of corn and 92% of all soybean acres rely on glyphosate to manage weeds. If glyphosate was no longer produced due to costly litigation, these acres would experience lost production or increased cost of production.

**SDFB POLICY:****We Support:**

- Limitations on lawsuits, both on what may constitute a lawsuit and on monetary awards that can be sought.
- State and local farm organizations having input in the handling and use guidelines of hazardous ag chemicals.

**DISCUSSION:**

1. Does SDFB believe the federal regulatory process under FIFRA is sufficient to protect consumers, thereby justifying liability protections for pesticide manufacturers?
2. How would loss of access to products like glyphosate affect South Dakota farmers' competitiveness and sustainability?
3. Does SDFB want to take a proactive stance on this issue during the next legislative session, monitor how it develops in other states, or wait for the courts to continue to decide the outcomes?