217B.195 Effect of use of pesticides or fertilizers -- Limit on liability for.

(1) No person engaged in farming who has applied or used or arranged for the application or use of any fertilizer, plant growth regulator, or pesticide as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, shall be responsible or liable without proof of negligence or lack of due care, for any damages or response costs relating to any direct or indirect discharge or release into, or actual or threatened pollution of, the land, waters, air, or other resources of the state that is or may be associated with or resulting from the application or use, provided that:

(a) The application or use was in a manner consistent with the labeling of the fertilizer, plant growth regulator, or pesticide and in accordance with acceptable agricultural management practices and all applicable state and federal laws and regulations at the time of the application or use;

(b) The state or federal government, or any of its agencies, had approved, recommended, or permitted the application or use and there is no finding that any conditions of the approval, recommendation, or permit were violated, or that warnings or limitations regarding the application or use were ignored; and

(c) The fertilizer, plant growth regulator, or pesticide was licensed by or registered with the state or federal government at the time of the application or use and the person, firm, or corporation knew of no special geological, hydrological, or soil type condition existing on the land which rendered the application or use likely to cause pollution. No person, firm, or corporation shall be liable based solely on ownership of the land where the application or use took place.

(2) For the purposes of this section, farming means the cultivation of land used for the production of agricultural crops, livestock or livestock products, forestry or forestry products, milk or dairy products, poultry or poultry products, aquaculture or aquacultural products, and horticulture or horticultural products.

(3) Nothing in this section shall be construed to prohibit any cause of action based on strict tort liability against any manufacturer of the fertilizer, plant growth regulator, or pesticide.

(4) Any and all ordinances of any unit of local government now in effect or hereafter adopted that are in conflict with this section shall be void.

Effective: July 13, 1990

History: Created 1990 Ky. Acts ch. 307, sec. 6, effective July 13, 1990.