

As Amended by House Committee

Session of 2024

HOUSE BILL No. 2607

By Committee on Agriculture and Natural Resources

Requested by Kelsey Olson on behalf of the Kansas Department of Agriculture

1-25

1 AN ACT concerning agriculture; relating to the Kansas department of  
2 agriculture; the Kansas pesticide law; the Kansas chemigation safety  
3 law; requiring supervision and training for uncertified applicators;  
4 clarifying definition of governmental agency; requiring applicants to  
5 file certificates of liability insurance or surety bonds in lieu of bonds;  
6 letters of credit or proof of an escrow; government agency certification  
7 for pesticide applications in the sodium cyanide predator control  
8 category; requiring direct supervision of registered pest control  
9 technicians by a certified commercial applicator when applying  
10 restricted use pesticides; expanding applicability of the current civil  
11 penalty provisions to any person or entity that violates the Kansas  
12 pesticide law; adding additional categories of qualification for  
13 certification and licensing; updating private applicator certificate  
14 requirements; allowing the secretary to establish a training program for  
15 initial certification of private applicators as an alternative to a written  
16 examination; requiring additional information in statements of service  
17 or contracts; government agencies to maintain records relating to each  
18 application of pesticide made by such government agency; applying the  
19 same criminal penalty to certified private applicators as other persons  
20 for violations of the Kansas pesticide law; removing the secretary's  
21 authority to deny, suspend, revoke or modify a permit if an applicant,  
22 registrant or permit holder has been convicted or pled guilty to a state  
23 or federal felony; amending K.S.A. 2-2438a, 2-2440, 2-2440b, 2-  
24 2440e, 2-2443a, 2-2444a, 2-2445a, 2-2446, 2-2448, 2-2449, 2-2450, 2-  
25 2455, 2-2461, 2-2467a and 2-3310 and repealing the existing sections.  
26

27 *Be it enacted by the Legislature of the State of Kansas:*

28 New Section 1. (a) Each pesticide business licensee who applies  
29 restricted use pesticides or causes restricted use pesticides to be applied  
30 and employs uncertified applicators to make such pesticide applications  
31 shall provide appropriate supervision and training for each uncertified  
32 applicator.

33 (b) Each private applicator who permits uncertified applicators to  
34 apply restricted use pesticides or causes restricted use pesticides to be  
35 applied shall provide appropriate supervision and training for each

Proposed Amendments for HB 2607 as  
Amended by House Committee  
Senate Agriculture and Natural Resources  
Civil Penalties  
March 7, 2024  
Office of Revisor of Statutes

1 (b) Registered pest control technicians may not supervise the use of,  
 2 or apply, any restricted use pesticide unless the application is supervised  
 3 by a commercial applicator who is certified to apply restricted use  
 4 pesticides for the control of pests in the category or subcategory for which  
 5 the pesticide application is made. The secretary may adopt rules and  
 6 regulations to prescribe requirements concerning the direct supervision of  
 7 registered pest control technicians by certified applicators.

8 (c) Any such employee applying for a pest control technician  
 9 registration shall file an application on a form prescribed by the secretary.  
 10 Application for such registration shall be accompanied by an application  
 11 fee established by rules and regulations adopted by the secretary, except  
 12 that such fee shall not exceed \$40, except that on and after July 1, 2028,  
 13 such fee shall not exceed \$25, and shall be reduced, but not below zero, by  
 14 an amount equal to the additional fee paid under K.S.A. 2-2440(b), and  
 15 amendments thereto, for such uncertified individual.

16 (d) If the secretary finds the applicant qualified to be a registered  
 17 pest control technician after meeting the training requirements determined  
 18 by the secretary in rules and regulations, the secretary shall issue a pest  
 19 control technician registration that will expire at the end of the calendar  
 20 year.

21 (e) This section shall be a part of and supplemental to the Kansas  
 22 pesticide law.

23 Sec. 5. K.S.A. 2-2440e is hereby amended to read as follows: 2-

24 2440e. (a) Any pesticide business licensee or pesticide dealer who <sup>person</sup>  
 25 ~~or entity that~~ violates any of the provisions provision of K.S.A. 2-2453 or  
 26 2-2454, and amendments thereto the Kansas pesticide law or any rules or  
 27 regulations adopted thereunder, in addition to any other penalty provided  
 28 by law, may incur a civil penalty imposed under subsection (b) in the  
 29 amount fixed by rules and regulations of the secretary in an amount not  
 30 less than \$100 nor more than ~~\$5,000~~ **\$500** for each violation and, in the  
 31 case of a continuing violation, every day such violation continues may be  
 32 deemed a separate violation ~~except that in no case shall the maximum~~  
 33 ~~total civil penalty exceed \$2,500~~

34 (b) A duty authorized agent of The secretary, may impose a civil  
 35 penalty as provided in this section upon a finding that a pesticide business  
 36 licensee or pesticide dealer any person or entity or any employee or agent  
 37 thereof or any person or entity required to be licensed as a pesticide  
 38 business licensee or registered as a pesticide dealer who or certified as an  
 39 applicator violates has violated any provision of the provisions of K.S.A.  
 40 2-2453 and 2-2454, and amendments thereto, may impose a civil penalty  
 41 as provided in this section upon such licensee or dealer the Kansas  
 42 pesticide law or any rules or regulations adopted thereunder. The  
 43 secretary may impose a civil penalty as provided in this section upon a

pesticide business licensee or pesticide dealer who

\$5,000

. In the case of a continuing violation, the maximum civil penalty shall not exceed \$10,000.

(2) Except as provided in paragraph (1), any person who holds a license, certification, registration or permit or is required to hold such license, certification, registration or permit pursuant to the Kansas pesticide law who violates any provision of the Kansas pesticide law or any rules or regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$500 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation. In the case of a continuing violation, the maximum civil penalty shall not exceed \$2,500.

1 finding that ~~any person~~ ~~or entity~~ has violated any provision of the  
2 Kansas pesticide law or any rules or regulations adopted thereunder.

a pesticide business licensee, pesticide dealer or

3 (c) No civil penalty shall be imposed pursuant to this section except  
4 upon the written order of the duly authorized agent of the secretary to the  
5 pesticide business licensee or pesticide dealer who committed the  
6 violation. Such order shall state the violation, the penalty to be imposed  
7 and the right of such pesticide business licensee or pesticide dealer ~~person~~  
8 ~~or entity~~ to appeal to the secretary. Any such licensee or dealer, within 20  
9 days after notification, ~~person~~ ~~or entity~~ may make written request to the  
10 secretary for a hearing or informal conference hearing in accordance with  
11 the provisions of the Kansas administrative procedure act. ~~The secretary~~  
12 ~~shall affirm, reverse or modify the order and shall specify the reasons~~  
13 ~~therefor.~~

pesticide business licensee, pesticide dealer or  
pesticide business licensee, pesticide dealer or

14 (d) Any person ~~or entity~~ aggrieved by an order of the secretary made  
15 under this section may appeal such order to the district court in the manner  
16 provided by the Kansas judicial review act.

pesticide business licensee, pesticide dealer or

17 (e) Any civil penalty recovered pursuant to the provisions of this  
18 section shall be remitted to the state treasurer. Upon receipt of each such  
19 remittance, the state treasurer shall deposit the entire amount in the state  
20 treasury to the credit of the state general fund.

21 (f) This section shall be a part of and supplemental to the Kansas  
22 pesticide law.

23 Sec. 6. K.S.A. 2-2443a is hereby amended to read as follows: 2-  
24 2443a. (a) An applicant for a commercial applicator's certificate shall show  
25 upon written examination that the applicant possesses adequate knowledge  
26 concerning the proper use and application of pesticides in the categories or  
27 subcategories for which the applicant has applied. A commercial applicator  
28 who holds a current certificate to apply pesticides commercially in any  
29 other state or political subdivision of the United States may be exempted  
30 from examination for certification in this state upon approval of the  
31 secretary and payment of a \$75 fee per category, unless a fee not to exceed  
32 \$75 is established in rules and regulations adopted by the secretary.

33 (b) (1) A certified commercial applicator may, at the discretion of the  
34 secretary, obtain an additional certification allowing the application of  
35 pesticides in another category or subcategory upon:

36 (A) Submission of a complete and accurate application;

37 (B) Payment of a fee of \$45; and

38 (C) Completion of a training course approved by the secretary to  
39 authorize such additional certification.

40 (2) The provisions of this subsection shall expire on December 31,  
41 2028.

42 (c) (1) Notwithstanding any other provision of this section, except as  
43 provided by paragraph (2), commercial applicator certification shall not

1 *allow applications in the category of sodium cyanide predator control.*

2 *(2) The secretary may permit certified applicators of government*  
3 *agencies to obtain sodium cyanide predator control certification.*

4 *(d) Applicants shall submit with each application a fee per*  
5 *examination taken, including each category, subcategory and general core*  
6 *examination. The examination fee shall be fixed by rules and regulations*  
7 *adopted by the secretary, except that such fee shall not exceed \$45 per*  
8 *examination, except that on and after July 1, 2028, such fee shall not*  
9 *exceed \$35 per examination. Applicants who fail to pass the examination*  
10 *may reapply and take another examination upon paying another*  
11 *examination fee. Such fee shall be fixed by rules and regulations adopted*  
12 *by the secretary, except that such fee shall not exceed \$45 per examination,*  
13 *except that on and after July 1, 2028, such fee shall not exceed \$35 per*  
14 *examination. The general core examination includes, but is not limited to,*  
15 *the following:*

16 (1) The proper use of the equipment.

17 (2) The hazards that may be involved in applying the pesticides,  
18 including:

19 (A) The effect of drift of the pesticides on adjacent and nearby lands  
20 and other non-target organisms;

21 (B) the proper meteorological conditions for the application of  
22 pesticides and the precautions to be taken with such application;

23 (C) the effect of the pesticides on plants or animals in the area,  
24 including the possibility of damage to plants or animals or the possibility  
25 of illegal pesticide residues resulting on them;

26 (D) the effect of the application of pesticides to wildlife in the area,  
27 including aquatic life;

28 (E) the identity and classification of pesticides used and the effects of  
29 their application in particular circumstances; and

30 (F) the likelihood of contamination of water or injury to persons,  
31 plants, livestock, pollinating insects and vegetation.

32 (3) Calculating the concentration of pesticides to be used.

33 (4) Identification of common pests to be controlled and damages  
34 caused by such pests.

35 (5) Protective clothing and respiratory equipment for handling and  
36 application of pesticides.

37 (6) General precautions to be followed in the disposal of containers as  
38 well as the cleaning and decontamination of the equipment—~~which~~ *that* the  
39 applicant proposes to use.

40 (7) Applicable state and federal pesticide laws and regulations.

41 (8) Any other subject ~~which~~ *that* the secretary deems necessary.

42 Sec. 7. ~~K.S.A. 2-2444a is hereby amended to read as follows: 2-~~  
43 ~~2444a. (a) The categories of qualification for certification and licensing~~

1 shall include:

- (A) 2 ~~(1)~~ Agricultural pest control;
- (B) 3 ~~(2)~~ forest pest control;
- (C) 4 ~~(3)~~ ornamental and turf pest control;
- (D) 5 ~~(4)~~ seed treatment;
- (E) 6 ~~(5)~~ aquatic pest control;
- (F) 7 ~~(6)~~ right-of-way pest control;
- (H) 8 ~~(7)~~ industrial, institutional, structural and health related pest control;
- (G) 9 ~~(8)~~ public health pest control;
- (H) 10 ~~(9)~~ regulatory pest control; and
- (I) 11 ~~(10)~~ demonstration and research pest control;
- (J) 12 ~~(11)~~ sodium cyanide predator control;
- (K) 13 ~~(12)~~ aerial pest control; and
- (L) 14 ~~(13)~~ soil fumigation.
- (M) 15 ~~(b)~~ The secretary shall have authority to subdivide any category of

(2) Sodium fluoracetate predator control applications shall not be allowed.

16 qualification for certification or licensing enumerated in subsection (a) of  
17 this section in order to account for the special needs or business practices  
18 of this state. The secretary may also adopt any additional categories ~~the~~  
19 ~~the~~ secretary deems necessary for any reason. Any such changes in the  
20 categories enumerated in subsection (a) shall be adopted by rules and  
21 regulations of the secretary.

22 Sec. 8. K.S.A. 2-2445a is hereby amended to read as follows: 2-  
23 2445a. (a) In lieu of obtaining a commercial applicator's certificate under  
24 ~~the provisions of~~ K.S.A. 2-2441a, and amendments thereto, a private  
25 applicator's certificate may be applied for by and issued to individuals *at*  
26 *least 18 years of age* using restricted use pesticides.

27 *(b) Private applicator certification shall only be used for the purpose*  
28 *of producing any agricultural commodity on property owned or rented by*  
29 *the individual or such individual's employer or on the property of another*  
30 *for no compensation other than the trading of personal services between*  
31 *predators, or on the property of another for no compensation other*  
32 *than the trading of personal services between producers.*

33 *(c) (1) Private applicator certification shall not authorize*  
34 *applications in the following categories:*

- 35 (A) Sodium cyanide predator control;
- 36 (B) non-soil fumigation;
- 37 (C) aerial application; or
- 38 (D) soil fumigation.

39 *(2) Private applicators may obtain commercial applicator*  
40 *certification in order to make applications in any such categories except*  
41 *sodium cyanide predator control.*

42 *(3) Sodium fluoracetate predator control applications shall not be*  
43 *allowed.*

1 ~~applicant.~~

2 (b) (1) Prior to January 1, 2025, any existing proof of financial  
3 responsibility that has been properly filed with the secretary and remains  
4 valid shall fulfill the proof of financial responsibility requirements of the  
5 Kansas pesticide law.

6 (2) On and after January 1, 2025, pesticide business licensees and  
7 applicants shall have a certificate of liability insurance property filed with  
8 the secretary in accordance with the provisions of this section to fulfill the  
9 proof of financial responsibility requirements of the Kansas pesticide law.

or surety bond

10 Sec. 11. K.S.A. 2-2449 is hereby amended to read as follows: 2-2449.

11 The secretary may deny, suspend, revoke or modify the provisions of any  
12 license, registration, permit or certificate issued under this act, if the  
13 secretary finds, after notice and opportunity for a hearing are given in  
14 accordance with the provisions of the Kansas administrative procedure act,  
15 that the applicant, licensee, registrant, permit holder or certificate holder  
16 has:

17 (a) Been convicted of or pleaded guilty to a violation of this act or  
18 been convicted of or pleaded guilty to a felony under the laws of this state  
19 or of the United States; if the secretary determines, after investigation, that  
20 such person has not been sufficiently rehabilitated to warrant the public  
21 trust;

22 (b) failed to comply with any provision or requirement of this act or  
23 any rule and regulation adopted thereunder; or any of the laws or rules and  
24 regulations of any other state or the United States relating to licensing or  
25 other provisions concerning pesticide use or control; or

26 (c) had any license, certificate, registration or permit issued to the  
27 person under this act, or the pest control or pesticide use laws of any other  
28 state revoked.

29 Sec. 12. K.S.A. 2-2450 is hereby amended to read as follows: 2-2450.

30 (a) If the ~~surety bond~~, **surety bond** or certificate of liability insurance;  
31 ~~letter of credit or proof of an escrow account~~ previously furnished by the  
32 licensee expires or is canceled or terminated, the secretary shall suspend  
33 without a hearing the pesticide business license until ~~an acceptable~~  
34 ~~substitute surety bond, letter of credit, proof of an escrow account or an~~  
35 **acceptable substitute surety bond or a** certificate establishing acceptable  
36 replacement of liability insurance is supplied.

37 (b) If the pesticide business fails to employ one or more commercial  
38 applicators certified in each category and subcategory in which the  
39 pesticide business makes commercial pesticide applications, the secretary  
40 may suspend, without a hearing, the pesticide business license for that  
41 category until the pesticide business employs a commercial applicator with  
42 the appropriate certification.

43 Sec. 13. K.S.A. 2-2455 is hereby amended to read as follows: 2-2455.