

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:00 a.m. on March 18, 1994 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Kay Johnson, Committee Secretary

Conferees appearing before the committee:

Chairman Shore called the meeting to order and opened discussion on **SB 800**: confined feeding operation defined for water pollution purposes.

Chairman Shore thanked the sub-committee for their work on this bill and asked Jill Wolters, Revisor of Statutes, to explain the amended form as recommended by the sub-committee, attachment #1.

Ms. Wolters explained the following changes:

- * Page 2, the definition of confined feedlot waste control facility would be in animal units rather than animal numbers.
- * Page 3, facilities with 300 to 999 animal units would have to register with the Kansas Department of Health & Environment (KDHE) prior to new construction; facilities with less than 300 animal units could register with KDHE if they so desire; the registration fee is \$25; within 30 days KDHE will review the plans and if there is any significant water pollution potential or separation distance violations, a permit will be required.
- * Page 3, subsection (i), establishes separation distances from other residences; attachment #1 says "permanent residence", but it should read "occupied permanent dwelling". (For the purpose of committee action, it will be assumed that attachment #1 reads "occupied permanent dwelling".)
- * Page 3, subsection (j), establishes a separation distance waiver from adjacent residence owners; the waiver shall be filed with the Register of Deeds.
- * Page 3, subsection (k), grandfathers currently permitted facilities.
- * Page 4, establishes the dollar amount that permit fees cannot exceed.
- * Page 4, subsections (e) and (f), specifically states that any facility determined to have a significant water pollution potential, regardless of the size of the facility, would have to be permitted and any facility may request to be permitted.

Representative Swall made a motion to amend **SB 800** with the changes recommended by the sub-committee. Representative Lloyd seconded the motion. The motion carried.

Discussion followed on using the word "occupied" when referring to a permanent dwelling. How would situations such as people in Florida for the winter, parents saving the farmhouse for returning children, vacant rental houses or vacant homes for sale be considered? Ms. Wolters said the language was included to prohibit abandoned houses from being considered a residence.

Representative Alldritt made a motion to remove the word "occupied" from the phrase "occupied permanent dwelling. Representative Swall seconded the motion.

Discussion followed. Representative Flower suggested using the term "occupiable" or "suitable to be occupied". Representative Rezac said without the term "occupied" every vacant farmstead could hold up construction of a feedlot. Ms. Wolters said that "occupied" is in the criminal law in regard to arson and drive-

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 18, 1994.

by shootings. Representative Neufeld said that should provide a legal definition to use the term. Representative Rutledge asked Ms. Wolters to find out if the term "abandoned" is defined in case law and suggested exempting out abandoned dwellings as the term "abandoned" is more clear as to the intent and possible future use of the dwelling. Representative Gatlin expressed his concern about putting separation distances into law when they are now only guidelines. Chairman Shore said he is opposed to removing the word "occupied" as KDHE and neighbors should understand the term. The motion failed.

Representative Flower made a motion to insert the word "occupied" after the phrase "or suitable to be occupied". Representative Goodwin seconded the motion. Discussion followed. The motion carried. (Ms. Wolters said if she didn't use those exact words, she would come up with language to express identical intent.)

Representative Powers made a motion to pass SB 800 favorably as amended. Representative Lloyd seconded the motion. Ms. Wolters said additional language still needs to be added that establishes a \$25 permit fee for those included on page 4, subsections (e) and (f). First and seconded withdrew their motion. Representative Lloyd made a motion to include the additional language as suggested by Ms. Wolters. Representative Rutledge seconded the motion. Discussion followed. The motion carried. Representative Powers made a motion to pass SB 800 favorably as amended. Representative Lloyd seconded the motion. The motion carried.

Chairman Shore opened discussion on Substitute for SB 305: Leased equipment included in the definition of a crop production input for liens on personal property.

Chairman Shore reminded committee members of the hearing held on HB 2686 (drift insurance) and explained that since action was not taken on the bill, the Department of Agriculture decided that meant drift insurance should be required. The result is that chemical applicators cannot obtain or renew licenses without proof of such insurance. Attachment #2 is an amendment to Substitute for SB 305, which is currently tabled, that strikes all of that bill and replaces it with new language covering the drift issue.

Representative Rutledge made a motion to remove Substitute for SB 305 from the table. Representative Gatlin seconded the motion. The motion carried.

Representative Neufeld made a motion to adopt the balloon as outlined in attachment #2. Representative Kejr seconded the motion. The motion carried.

Ms. Wolters explained that this allows an aerial applicator to have a bond, letter of credit, escrow account or certificate of liability insurance. Specific language is included to apply to ground applicators, page 3, section 2(a) and to aerial applicators, page 4, section 2(b). The new language regarding the certificate of liability states that comprehensive chemical coverage would be required.

Discussion followed. The bill does not require drift insurance, but rather requires an aerial applicator to have one of the four (bond, letter of credit, escrow account or certificate of liability insurance). Comprehensive chemical coverage is a recognized industry term, whereas drift is not.

Representative Freeborn made a motion to pass Substitute for SB 305 favorably as amended. Representative Rutledge seconded the motion. The motion carried.

The meeting adjourned at 10:00am. There are no further meetings scheduled for the House Agriculture Committee.

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1991

SENATE BILL No. 800

By Committee on Ways and Means

2-16

AN ACT relating to water pollution; defining confined ~~feeding op-~~
~~erations feedlot waste control facility~~; amending K.S.A. 65-166a
and 65-171d and repealing the existing ~~section sections~~.

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

Section 1. K.S.A. 65-171d is hereby amended to read as follows:
65-171d. (a) For the purpose of preventing surface and subsurface
water pollution and soil pollution detrimental to public health or to
the plant, animal and aquatic life of the state, and to protect ben-
eficial uses of the waters of the state and to require the treatment
of sewage predicated upon technologically based effluent limitations,
the secretary of health and environment shall make such rules and
regulations, including registration of potential sources of pollution,
as may in the secretary's judgment be necessary to: (1) Clean up
pollution resulting from oil and gas activities regulated by the state
corporation commission; (2) protect the soil and waters of the state
from pollution resulting from (A) oil and gas activities not regulated
by the state corporation commission or (B) underground storage
reservoirs of hydrocarbons, natural gas and liquid petroleum gas; (3)
control the disposal, discharge or escape of sewage as defined in
K.S.A. 65-164 and amendments thereto, by or from municipalities,
corporations, companies, institutions, state agencies, federal agencies
or individuals and any plants, works or facilities owned or operated,
or both, by them; and (4) establish water quality standards for the
waters of the state to protect their beneficial uses.

(b) The secretary of health and environment may adopt by ref-
erence any regulation relating to water quality and effluent standards
promulgated by the federal government pursuant to the provisions
of the federal clean water act and amendments thereto, as in effect
on January 1, 1989, which the secretary is otherwise authorized by
law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through
65-171h and amendments thereto, ~~pollution~~ and rules and regu-

HOUSE AGRICULTURE
Attachment #1
3-18-94

lations adopted pursuant thereto: (1) "Pollution" means: (1) (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated beneficial uses; or (2) (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations; and (2) "confined feeding operation" means: (A) Any confined feeding of 1,000 or more cattle, swine, sheep or horses at any one time; (B) any animal feeding operation of less than 1,000 head using a lagoon; or (C) any other animal feeding operation having a water pollution potential. ~~"confined feedlot waste control facility" means an operation that at any one time feeds more than: (A) 1,000 slaughter and feeder cattle; (B) 700 mature dairy cattle; (C) 2,500 swine each weighing over 55 pounds; (D) 500 horses; (E) 10,000 sheep or lambs; (F) 55,000 turkeys; (G) 100,000 laying hens or broilers, if the facility has continuous overflow watering; (H) 30,000 laying hens or broilers, if the facility has a liquid manure system; (I) 5,000 ducks; or (J) any other individual confined animal feeding operation having significant water pollution potential.~~

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land bordering the reservoir is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary's duly authorized agents find that the soil or waters of the state are not being protected from pollution resulting from oil and gas activities not regulated by the state corporation commission or from underground storage reservoirs of hydrocarbons, natural gas and liquid petroleum gas or that storage or disposal of salt water or oil not regulated by the state corporation commission or refuse in any surface pond is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary's duly authorized

"animal unit" means a unit of measurement for any confined feedlot waste control facility calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0; plus the number of mature dairy cattle multiplied by 1.4; plus the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of sheep or lambs multiplied by the 0.1; plus the number of horses multiplied by 2.0; plus the number of turkeys multiplied by 0.018; plus the number of laying hens or broilers, if the facility has continuous overflow watering, multiplied by 0.01; plus the number of laying hens or broilers, if the facility has a liquid manure system, 0.033; plus the number of ducks multiplied by 0.2.

1 agents shall issue an order prohibiting such activity, underground
2 storage reservoir or surface pond. Any person aggrieved by such
3 order may within 15 days of service of the order request in writing
4 a hearing on the order.

5 (2) Upon receipt of a timely request, a hearing shall be conducted
6 in accordance with the provisions of the Kansas administrative pro-
7 cedure act.

8 (3) Any action of the secretary pursuant to this subsection is
9 subject to review in accordance with the act for judicial review and
10 civil enforcement of agency actions.

11 (f) The secretary may adopt rules and regulations establishing
12 fees for the following services:

13 (1) Plan approval, monitoring and inspecting underground or bur-
14 ied petroleum products storage tanks, for which the annual fee shall
15 not exceed \$5 for each tank in place;

16 (2) permitting, monitoring and inspecting salt solution mining
17 operators, for which the annual fee shall not exceed \$1,950 per
18 company; and

19 (3) permitting, monitoring and inspecting hydrocarbon storage
20 wells and well systems, for which the annual fee shall not exceed
21 \$1,875 per company.

22 (g) Agents of the secretary shall have the right of ingress and
23 egress upon any lands to clean up pollution resulting from oil and
24 gas activities. Such agents shall have the power to occupy such land
25 if necessary to investigate and clean up such pollution. Any agent
26 entering upon any land to conduct cleanup activities shall not be
27 liable for any damages necessarily resulting therefrom except dam-
28 ages to growing crops, livestock or improvements on the land.

29 *Sec. 2. K.S.A. 65-166a is hereby amended to read as follows:*
30 *65-166a. (a) The secretary of health and environment is authorized*
31 *and directed to establish by duly adopted rules or regulations a*
32 *schedule of fees to defray all or any part of the costs of administering*
33 *the water pollution control permit system established by K.S.A. 65-*
34 *165 and 65-166 and amendments to those statutes thereto. The*
35 *amount of the fees so established shall be based upon the quantity*
36 *of raw wastes or treated wastes to be discharged, units of design*
37 *capacity of treatment facilities or structures, numbers of potential*
38 *pollution units, physical or chemical characteristics of discharges*
39 *and staff time necessary for review and evaluation of proposed pro-*
40 *jects. In establishing the fee schedule, the secretary of health and*
41 *environment shall not assess fees for permits required in the extension*
42 *of a sewage collection system, but such fees shall be assessed for all*
43 *treatment devices, facilities or discharges where a permit is required*

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(h) Prior to any new construction of a confined feedlot waste control facility with 300 to 999 animal units, such facility shall register with the secretary of health and environment. Facilities with less than 300 animal units may register with the secretary. Any such registration shall be accompanied by a \$25 fee. Within 30 days of receipt of such registration, the department of health and environment shall review such construction plans to identify any significant water pollution potential or separation distance violations pursuant to subsection (i). If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary.

(i) Any new construction or expansion of a confined feedlot waste control facility shall meet or exceed the following requirements in separation distances from any permanent residence:

(1) 1320 feet for facilities with 300 to 999 animal units; and

(2) 4000 feet for facilities with 1000 or more animal units.

(j) The separation distance requirements of subsection (i) shall not apply if such person newly constructing or expanding a confined feedlot waste control facility obtains a written agreement from all adjacent residence owners stating such owners are aware of such construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the residence is located.

(k) The separation distances required pursuant to subsection (i) shall not apply to confined feedlot waste control facilities that are currently permitted by the secretary of health and environment.

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1 by law and is issued by the secretary of health and environment or
2 the secretary's designated representative. Such fees shall be non-
3 refundable.

4 (b) Any such permit for which a fee is assessed shall expire five
5 years from the date of its issuance. The secretary of health and
6 environment may issue permits pursuant to K.S.A. 65-165 and
7 amendments thereto for terms of less than five years, if the secretary
8 determines valid cause exists for issuance of the permit with a term
9 of less than five years. The minimum fee assessed for any permit
10 issued pursuant to K.S.A. 65-165 and amendments thereto shall be
11 for not less than one year. Permit fees may be assessed and collected
12 on an annual basis and failure to pay the assessed fee shall be cause
13 for revocation of the permit. Any permit which has expired or has
14 been revoked may be reissued upon payment of the appropriate fee
15 and submission of a new application for a permit as provided in
16 K.S.A. 65-165 and 65-166 and amendments to those statutes thereto.

17 (c) At no time shall the permit fee for a confined feedlot waste
18 control facility exceed:

19 ~~[(1) For a confined cattle, sheep or swine feedlot waste control~~
20 ~~facility: (A) \$30 per year for operations of 1,000 to 4,999 head; (B)~~
21 ~~\$75 per year for operations of 5,000 to 9,999 head; or (C) \$150 per~~
22 ~~year for operations of 10,000 or more head;~~

23 (2) for a dairy farm waste control facility \$30 per year for op-
24 erations of a 500 or more cow herd; or

25 (3) poultry waste control facility: (A) \$30 per year for operations
26 of 10,000 to 49,999 poultry; (B) \$75 per year for 50,000 to 99,999
27 poultry; or (C) \$150 per year for 100,000 or more poultry.]

28 (e) (d) The secretary of health and environment shall remit all
29 moneys received from the fees established pursuant to this act to
30 the state treasurer at least monthly. Upon receipt of such remittance,
31 the state treasurer shall deposit the entire amount thereof in the
32 state treasury to the credit of the state general fund.

33 Sec. 2 3. K.S.A. 65-166a and 65-171d is hereby repealed.

34 Sec. 3 4. This act shall take effect and be in force from and after
35 its publication in the statute book.

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(1) \$25 for facilities of 300 to 999 animal units which the secretary of health and environment has identified as having significant water pollution potential;
(2) \$100 for facilities of 1,000 to 4,999 animal units;
(3) \$200 for facilities of 5,000 to 9,999 animal units; or
(4) \$400 for facilities of more than 10,000 animal units.

(e) Any confined feedlot waste control facility with less than 300 animal units may be required to obtain a permit from the secretary if the secretary determines that such facility has significant water pollution potential.

(f) Any confined feedlot waste control facility, regardless of animal units, may request a permit from the secretary.

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Substitute for SENATE BILL No. 305

By Committee on Agriculture

2-9

8 AN ACT concerning ~~liens on personal property, relating to crop~~
9 ~~production input liens, amending K.S.A. 1993 Supp. 58-241 and~~
10 ~~58-243~~ and repealing the existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 ~~[Section 1. K.S.A. 1993 Supp. 58-241 is hereby amended to read~~
14 ~~as follows: 58-241. As used in this act unless the context clearly~~
15 ~~requires otherwise:~~

16 (a) "Agricultural chemical" means fertilizers, lime or agricultural
17 chemicals that are applied to crops or to land that is used for raising
18 crops, including fertilizer material, plant amendment, plant food, soil
19 amendment, pesticide and plant regulator.

20 (b) "Agricultural production input" means crop production inputs
21 and livestock production inputs.

22 (c) "Crop production input" means agricultural chemicals, seeds,
23 petroleum products, custom application of agricultural chemicals and
24 seeds and labor furnished in planting, cultivating, growing, produc-
25 ing, harvesting, drying and storing crops or crop products, *or equip-*
26 *ment or machinery leased for the purpose of planting, cultivating,*
27 *growing, producing, harvesting, drying and storing crops or crop*
28 *products.*

29 (d) "Feed" means commercial feeds, feed ingredients, mineral
30 feeds, drugs, animal health products, supplements, customer-formula
31 feeds or other products, including grain, that are used for feeding
32 livestock.

33 (e) "Lender" means a person in the business of lending money
34 identified in the lien-notification statement.

35 (f) "Letter of commitment" means a binding, irrevocable and
36 unconditional agreement by a lender to honor drafts or other de-
37 mands for payment upon the supplier presenting invoices signed by
38 the purchaser or other proof of delivery.

39 (g) "Lien" means a lien for the unpaid retail cost of agricultural
40 production input.

41 (h) "Livestock production input" means feed and labor furnished
42 in raising livestock, but shall not include feed or labor for which the
43 ~~statutory lien created by K.S.A. 58-207 and 58-220, and amendments~~

agriculture; relating to pesticides;
amending K.S.A. 2-2440, 2-2448, 2-2450,
2-2451 and 2-2467a

Striking all of page 2

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ATT 2

1 ~~(b) A supplier who furnishes livestock production inputs has a~~
2 ~~lien for the unpaid retail cost of the livestock production input.~~
3 ~~Subject to the limitations of subsection (d) of K.S.A. 1993 Supp. 58-~~
4 ~~242, and amendments thereto, the lien shall have priority over a~~
5 ~~security interest of a lender only if perfected and if the supplier~~
6 ~~notifies the lender of such supplier's lien pursuant to K.S.A. 1993~~
7 ~~Supp. 58-242, and amendments thereto. The lien attaches to all~~
8 ~~livestock consuming the feed and continues in livestock products and~~
9 ~~proceeds, except that the lien does not continue after a cash sale.~~
10 ~~A perfected lien that attaches to livestock may not exceed the~~
11 ~~amount, if any, that the sales price of the livestock exceeds the~~
12 ~~greater of the fair market value of the livestock at the time the lien~~
13 ~~attaches or the acquisition price of the livestock.~~

14 (c) A lien attaches when the agricultural production inputs are
15 furnished by the supplier to the purchaser.

16 Sec. 3. K.S.A. 1993 Supp. 58-241 and 58-243 are hereby re-
17 ~~pealed.~~

Insert attached sections

18 Sec. 4. This act shall take effect and be in force from and after
19 its publication in the statute book.

5

Section 1. K.S.A. 2-2440 is hereby amended to read as follows: 2-2440. (a) Subject to the provisions of subsection (d), it is unlawful for any pesticide business which has not been issued a pesticide business license to:

(1) Advertise, offer for sale, sell or perform any service for the control of a pest on the property of another or apply a pesticide to the property of another within this state; or

(2) perform any service for the control of a pest or apply any pesticide on or at the premises of another person under any commission, division of receipts or subcontracting arrangement with a licensed pesticide business.

Nothing in this subsection shall be construed to require the licensing of any person applying restricted use pesticides to the property of another as a certified private applicator or under the supervision of a certified private applicator.

(b) Application for a pesticide business license or renewal shall be made in writing to the secretary on a designated form obtained from the secretary's office and shall be accompanied by an application fee per category in which the licensee applies, and an additional fee for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each such uncertified employee shall be fixed by rules and regulations adopted by the state board of agriculture except that such fees shall not exceed an application fee of \$100 per category in which the licensee applies and an additional fee of \$10 for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each uncertified employee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. Any uncertified individual employed for a period of more than 10 days in a 30-day period or for five consecutive days by a licensee to apply pesticides subsequent to such application shall be reported to the secretary within 30 days of such employee's hiring and the fee shall be paid at that time. Each application shall also include the following:

(1) The business name of the person applying for such license or renewal;

(2) if the applicant is an individual, receiver, trustee, representative, agent, firm, partnership, association, corporation or other organized group of persons, whether or not incorporated, the full name of each owner of the firm or partnership or the names of the officers of the association, corporation or group;

(3) the principal business address of the applicant in the state and elsewhere; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(c) The secretary may issue a pesticide business license to apply pesticides in categories for which an applicant has applied

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if the applicant files the bond ~~or~~, insurance, letter of credit or proof of an escrow account as required under K.S.A. 2-2448 and amendments thereto, satisfies the requirements of subsection (b), and pays the required fees. Such license shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(d) The following persons shall be exempted from the licensing requirements of this act:

(1) State or federal personnel using pesticides or pest control services while engaged in pesticide use research;

(2) veterinarians or physicians using pesticides as a part of their professional services; and

(3) any person or such person's employee who applies pesticides on or at premises owned, leased or operated by such person.

(e) Subject to the provisions of subsection (d), it is unlawful for any governmental agency which has not been issued a government agency registration to apply pesticides within this state. Application for government agency registration shall be made in writing to the secretary on a designated form obtained from the secretary's office and shall be accompanied by a fee fixed by rules and regulations adopted by the state board of agriculture, except that such fee shall not exceed \$35. The governmental agency registration fee in effect on the day preceding the effective date of this act shall continue in effect until the state board of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county which has previously applied for and received government agency registration. Each application for registration shall contain information including, but not limited to:

(1) The name of the government agency;

(2) the mailing address of the applicant;

(3) the name and mailing address of the person who heads such agency and who is authorized to receive correspondence and legal papers. Such person shall be (A) the mayor or city manager for municipalities, (B) the chairperson of the board of county commissioners for counties, (C) the township trustee for townships or (D) any person designated by any other governmental agency; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(f) If the secretary finds the application to be sufficient, the secretary shall issue a government agency registration. The government agency is not required to furnish a surety bond under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a registration is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

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(g) A pesticide business license or government agency registration may be renewed by meeting the same requirements as for a new license or registration. Neither the pesticide business license nor the government agency registration shall be transferable, except that, in the event of the disability, incapacity or death of the owner, manager or legal agent of a pesticide business licensee, a permit may be issued by the secretary to permit the operation of such business until the expiration period of the license in effect at the time of such disability, incapacity or death if the applicant therefor can show that the policies and services of such business will continue substantially as before, with due regard to protection of the public and the environment.

(h) No pesticide business license may be issued to any person until such person is or has in such person's employ one or more individuals who are certified commercial applicators in each of the categories for which the license application is made.

Sec. 2. K.S.A. 2-2448 is hereby amended to read as follows: 2-2448. (a) The provisions of this subsection shall not apply to applicants for a pesticide business license who are aerial applicators. The secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility including a surety bond or a certificate of liability insurance as a condition precedent to such license being issued. The bond or certificate of liability insurance shall be executed by a corporate surety or insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The surety bond and certificate shall be executed on a form approved by the secretary. The applicant shall be named as the principal in the bond. ~~On and after January 17, 1983,~~ The amount of the bond coverage shall be fixed by the secretary, but shall not be less than \$6,000 per year. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and acts amendatory thereof and supplemental thereto.

The liability insurance policy shall provide coverage (a) for not less than \$25,000 for bodily injury liability for each occurrence; and (b) for not less than \$5,000 for property damage liability for each occurrence. Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto, shall be covered.

9-6 The secretary shall be notified in writing by the insurer at least 10 days prior to the effective date of any reduction or cancellation of liability insurance which was supplied as a prerequisite to licensing. Upon reduction or cancellation of the

liability insurance, the secretary shall suspend such pesticide applicator's business license until the bond requirement or the insurance requirement is met by the licensee for the current license period.

It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or in publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and that fact and the amount of such bond are specified.

(b) The provisions of this subsection shall apply to applicants for a pesticide business license who are aerial applicators. The secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility by:

(1) A surety bond in an amount not less than \$6,000 per year. The bond shall be executed by a corporate surety and shall state the effective date and the expiration date. The surety bond shall be executed on a form approved by the secretary. The applicant shall be named as the principal in the bond. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and acts amendatory thereof and supplemental thereto. It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or in publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and that fact and the amount of such bond are specified;

(2) a certificate of liability insurance. The certificate of liability insurance shall be executed by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date of the policy. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The liability insurance policy shall provide: (A) Coverage for not less than \$25,000 for bodily injury liability for each occurrence; (B) coverage for not less than \$5,000 for property damage liability for each occurrence; and (C) for comprehensive chemical coverage. Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto shall be covered. The secretary shall be notified in writing by the insurer at least 10 days prior to the effective date of any reduction or cancellation of liability insurance which was supplied as a prerequisite to licensing. Upon reduction or cancellation of the liability insurance, the secretary shall suspend such pesticide applicator's business license until the insurance requirement is met by the licensee for the current license period. The certificate shall be executed on a form approved by the

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secretary;

(3) a \$6,000 letter of credit from a Kansas financial institution, as defined in K.S.A. 16-117, and amendments thereto. The letter of credit shall be executed on a form approved by the secretary. The letter of credit shall state the effective date and the expiration date and shall be valid through the effective date of the applicant's business license. Upon cancellation of the letter of credit, the secretary shall suspend such pesticide applicator's business license until the letter of credit requirement is met by the licensee for the current license period; or

(4) maintaining a minimum balance of \$6,000 in a an escrow account in a Kansas financial institution as defined in K.S.A. 16-117, and amendments thereto. The secretary shall be notified in writing by the financial institution within 10 days if the amount in the escrow account falls below the \$6,000 minimum balance. Upon notification, the secretary shall suspend such pesticide applicant's business license until the escrow account minimum balance is at \$6,000.

Sec. 3. K.S.A. 2-2450 is hereby amended to read as follows: 2-2450. If the surety bond ~~or~~, certificate of liability insurance, letter of credit or proof of an escrow account as previously furnished by the licensee is canceled or terminated, the secretary shall suspend without a hearing the license until an acceptable substitute surety bond, letter of credit or proof of an escrow account or until a certificate establishing acceptable replacement of liability insurance is supplied.

Sec. 4. K.S.A. 2-2451 is hereby amended to read as follows: 2-2451. Before any pesticide business license, governmental registration or an applicator's certificate shall be revoked, denied renewal or before it shall be suspended for any cause other than termination of surety bond ~~or~~, liability insurance coverage, letter of credit or proof of an escrow account, the secretary shall inform the licensee, registrant or holder of a certificate of the date and place of hearing upon ~~said~~ such proposed revocation, denial or suspension. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 5. K.S.A. 2-2467a is hereby amended to read as follows: 2-2467a. The secretary is hereby authorized to promulgate and adopt rules and regulations for the administration of this act and concerning the following matters which include but are not limited to:

(a) The designation of certain pesticides as restricted use pesticides as provided in K.S.A. 2-2439, and amendments thereto;

(b) the designation of categories for the issuance of pesticide business licenses as provided in K.S.A. 2-2444a, and amendments thereto;

(c) the designation of categories for the certification of applicators as provided in K.S.A. 2-2444a, and amendments thereto;

(d) the designation of training requirements for those

persons applying for a pest control technician's registration as provided in K.S.A. 2-2440b;

(e) the registration and identification of equipment used in the commercial application of pesticides as provided in K.S.A. 2-2456, and amendments thereto;

(f) the storing and discarding of pesticides, pesticide materials, pesticide reinstates and pesticide containers;

(g) proper health and safety precautions;

(h) proof of financial responsibility including acceptable surety bond ~~or~~, liability insurance coverage, letter of credit or proof of an escrow account;

(i) furnishing of reports and information necessary for the secretary to carry out the provisions of this act; and

(j) imposing limitations on the use of any pesticide in a manner inconsistent with its label or labeling, pursuant to K.S.A. 2-2471; and

(k) any procedural or other matters related to the designation of pesticide management areas.

Sec. 6. K.S.A. 2-2440, 2-2448, 2-2450, 2-2451 and 2-2467a are hereby repealed.