

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

1 uncertified applicator.

2 (c) Uncertified applicators may not apply any restricted use pesticide
 3 unless the application is supervised by a certified applicator who is
 4 certified to apply restricted use pesticides for the control of pests in the
 5 category or subcategory for which the pesticide application is made.

6 (d) The secretary may adopt rules and regulations to prescribe
 7 requirements for appropriate supervision and training of uncertified
 8 applicators by certified applicators.

9 (e) Each uncertified applicator shall have received training, to the
 10 extent prescribed by the secretary in rules and regulations, in each of the
 11 subjects enumerated in K.S.A. 2-2443a, and amendments thereto.

12 (f) (1) Each pesticide business licensee shall maintain records to
 13 verify that each uncertified applicator employed by such pesticide business
 14 licensee has been properly trained.

15 (2) The secretary may adopt rules and regulations to prescribe record
 16 requirements, including, but not limited to, the training information that
 17 pesticide business licensees are required to maintain. Such records shall
 18 be:

19 (A) Maintained for a period of three years after the training has been
 20 given; and

21 (B) made available to the secretary or the secretary's authorized
 22 designee upon request.

23 (g) This section shall be a part of and supplemental to the Kansas
 24 pesticide law.

25 Sec. 2. K.S.A. 2-2438a is hereby amended to read as follows: 2-
 26 2438a. As used in this act, unless the context otherwise requires, ~~the~~
 27 ~~following words and phrases shall have the meanings ascribed to them in~~
 28 ~~this section:~~

29 (a) "Animal" means all vertebrate and invertebrate species, including,
 30 but not limited to, man and other mammals, birds, fish and shellfish.

31 (b) "Department" means the Kansas department of agriculture ~~of the~~
 32 ~~state of Kansas.~~

33 (c) "Certified applicator" means any individual who is certified under
 34 this act to use or supervise the use of any restricted use pesticide ~~which~~
 35 ~~that~~ is classified for restricted use by a certified applicator.

36 (1) "Certified commercial applicator" means a certified applicator,
 37 whether or not a private applicator with respect to some uses, who uses or
 38 supervises the use of any pesticide ~~which that~~ is classified for restricted
 39 use for any purpose or on any property other than as provided in paragraph
 40 (2) ~~of this subsection (e).~~

41 (2) "Certified private applicator" means a certified applicator who
 42 uses or supervises the use of any pesticide ~~which that~~ is classified for
 43 restricted use for purposes of producing any agricultural commodity, ~~(A)~~

1 on property owned or rented by such person or such person's employer ~~or~~
2 ~~(B) if applied without compensation other than trading of personal services~~
3 ~~between producers of agricultural commodities, on the property of another~~
4 ~~person.~~

5 (d) "Defoliant" means any substance or mixture of substances
6 intended to cause the leaves or foliage to drop from a plant, with or
7 without causing abscission.

8 (e) "Desiccant" means any substance or mixture of substances
9 intended for artificially accelerating the drying of plant tissue.

10 (f) "Equipment" means any ground, water or aerial apparatus, used to
11 apply any pesticide but shall not include any pressurized hand size
12 household apparatus used to apply any pesticide or any equipment,
13 apparatus or contrivance of which the person who is applying the pesticide
14 is the source of power or energy in making such pesticide application.

15 (g) "Fungus" means any nonchlorophyll-bearing thallophyte,
16 including, but not limited to, rust, smut, mildew, mold, yeast and bacteria,
17 except those on or in man or other animals and those on or in processed
18 food, beverages or pharmaceuticals.

19 (h) "General use pesticide" ~~shall mean and include~~ *means* all
20 pesticides ~~which that~~ have not been designated, by rule or regulation of the
21 secretary, as being restricted use pesticides.

22 (i) "Insect" means any small invertebrate animal having the body
23 segmented, belonging to the class insecta and other classes of arthropods,
24 including, but not limited to, beetles, bugs, bees, flies, spiders, mites, ticks
25 and centipedes.

26 (j) "Registered pest control technician" means an uncertified
27 commercial applicator who applies pesticides for wood destroying pest
28 control, for structural pest control, for ornamental pest control, for turf pest
29 control, for interior landscape pest control or for any combination of these
30 types of pest control, and who has received verifiable training.

31 (k) "Nematode" means any unsegmented roundworms of the class
32 nematoda, with elongated, fusiform; or saclike bodies covered with cuticle,
33 inhabiting soil, water, plants or plant parts. Such roundworms may also be
34 referred to as nemas or eelworms.

35 (l) "Person" means any individual, partnership, association of
36 persons, corporation or governmental agency.

37 (m) "Pest" means, but is not limited to, any insect, rodent, nematode,
38 fungus, weed or any other form of terrestrial or aquatic plant or animal life
39 or virus, bacteria or other microorganism, except viruses, bacteria or other
40 microorganisms on or in man or other animals; ~~or which that~~ the secretary
41 may declare to be a pest.

42 (n) "Pesticide" means, but is not limited to, (1) any substance or
43 mixture of substances used to prevent, destroy, control, repel, attract or

1 mitigate any pest and (2) any substance or mixture of substances intended
2 to be used as a plant regulator, defoliant or desiccant.

3 (o) "Pesticide business" means any individual, partnership,
4 association of persons or corporation ~~which~~ *that* applies pesticides to the
5 property of another for compensation.

6 (p) "Pesticide business licensee" ~~shall mean~~ *means* an individual,
7 business, association of persons or corporation who is licensed or would
8 be required to be licensed under the provisions of K.S.A. 2-2440, and
9 amendments thereto.

10 (q) "Pesticide dealer" means any person who sells a pesticide to
11 another person for application.

12 (r) "Plant regulator" means any substance or mixture of substances
13 intended through physiological action; to accelerate or retard the rate of
14 growth or maturation; or to otherwise alter the behavior of plants but shall
15 not include substances insofar as they are used as plant nutrients, trace
16 elements, nutritional chemicals, plant inoculants or soil amendments. ~~The~~
17 ~~term~~ "Plant regulator" ~~shall~~ *does* not include any such nutrient mixtures or
18 soil amendments as are commonly known as vitamin-hormone
19 horticultural products, intended for improvement, maintenance, survival,
20 health and propagation of plants, and not for pest destruction if such
21 mixtures or soil amendments, in the undiluted packaged concentration are
22 nontoxic and nonpoisonous.

23 (s) "Restricted use pesticide" ~~shall mean and include~~ *means* all
24 pesticide uses designated as such by rules and regulations of the secretary.

25 (t) "Secretary" means the secretary of agriculture.

26 (u) "Under the supervision of" means, unless otherwise provided by
27 the labeling of the pesticide product, acting under the instructions and
28 control of another person who is available if and when needed, even
29 though such other person is not physically present at the time and place the
30 act is done.

31 (v) "Weed" means any plant or part thereof ~~which~~ *that* grows where
32 not wanted.

33 (w) "Use of any pesticide in a manner inconsistent with its label or
34 labeling" means to use any pesticide in a manner not permitted by the label
35 or labeling.

36 (x) "Pest control" means the destruction, prevention, repulsion or
37 mitigation of a population, infection or infestation of a pest.

38 (y) "Pesticide management area" means a site or area designated by
39 the secretary pursuant to K.S.A. 2-2472, and amendments thereto, ~~within~~
40 ~~which~~ *where* a pesticide management plan is deemed necessary for the
41 protection of the public health, safety, welfare or natural resources of the
42 state.

43 (z) "Natural resources" means and includes soils, water and any form

1 of terrestrial or aquatic or animal life.

2 (aa) "Pesticide rinsate" means the water contaminated with pesticides
3 from the cleaning of the inside of pesticide containers or pesticide tanks.

4 (bb) "*Governmental agency*" or "*government agency*" means any
5 officer, department, bureau, division, board, authority, agency, commission
6 or institution of a local, state or federal government when acting to
7 enforce or administer any law, regulation or ordinance or otherwise
8 acting in its official capacity.

9 Sec. 3. K.S.A. 2-2440 is hereby amended to read as follows: 2-2440.

10 (a) Subject to the provisions of subsection (d), it is unlawful for any
11 pesticide business that has not been issued a pesticide business license to:

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

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

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

23 (b) Application for a pesticide business license or renewal shall be
24 made on a form obtained from the secretary and shall be accompanied by
25 an application fee per category in which the licensee applies, and an
26 additional fee for each uncertified individual employed by the applicant to
27 apply pesticides. The application fee per category shall be \$140 per
28 category in which the licensee applies, except that on and after July 1,
29 2028, the application fee per category shall be \$112 per category in which
30 the licensee applies. An additional fee of \$15 shall be paid for each
31 uncertified individual employed by the applicant to apply pesticides,
32 except that on and after July 1, 2028, an additional fee of \$10 shall be paid
33 for each uncertified individual employed by the applicant to apply
34 pesticides. The application fee per category and the additional fee for each
35 uncertified employee in effect on the day preceding the effective date of
36 this act shall continue in effect until the secretary adopts rules and
37 regulations fixing a different fee under this subsection. Any uncertified
38 individual employed for a period of more than 10 days in a 30-day period
39 or for five consecutive days by a licensee to apply pesticides subsequent to
40 such application shall be reported to the secretary within 30 days of such
41 employee's hiring and the fee shall be paid at that time. Each application
42 shall also include the following:

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

1 renewal;

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

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

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

11 (c) The secretary may issue a pesticide business license to apply
12 pesticides in categories for which an applicant has applied if the applicant
13 files the ~~bond, certificate of liability insurance, letter of credit or proof of~~
14 ~~an escrow account~~ as required under K.S.A. 2-2448, and amendments
15 thereto, satisfies the requirements of subsection (b); and pays the required
16 fees. Such license shall expire at the end of the calendar year for which it
17 is issued unless it has been revoked or suspended prior thereto. If a license
18 is not issued as applied for, the secretary shall inform the applicant in
19 writing of the reasons therefor.

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

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

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

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

28 (e) Subject to the provisions of subsection (d), it is unlawful for any
29 governmental agency that has not been issued a government agency
30 registration to apply pesticides within this state. *Government agency*
31 *registration shall be required for pesticide applications in the sodium*
32 *cyanide predator control category, and applicators in this category shall*
33 *have sodium cyanide predatory control certification.* Application for
34 government agency registration shall be made on a form obtained from the
35 secretary and shall be accompanied by a fee fixed by rules and regulations
36 adopted by the secretary, except that such fee shall not exceed \$50, except
37 that on and after July 1, 2028, such fee shall not exceed \$35. The
38 governmental agency registration fee in effect on the day preceding the
39 effective date of this act shall continue in effect until the secretary adopts
40 rules and regulations fixing a different fee therefor under this subsection.
41 No fee shall be required of any township located within a county that has
42 previously applied for and received government agency registration. Each
43 application for registration shall contain information including, but not

1 limited to:

2 (1) The name of the government agency;

3 (2) the mailing address of the applicant;

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

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

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

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

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

34 Sec. 4. K.S.A. 2-2440b is hereby amended to read as follows: 2-
35 2440b. (a) It shall be unlawful for any pesticide business licensee to apply
36 pesticides for the control of wood destroying pests, structural pests,
37 ornamental pests, turf pests or interior landscape pests unless the
38 applicator of the pesticide is a certified commercial applicator or is a
39 registered pest control technician, except that an ~~uncertified-commercial~~
40 applicator may apply *general use* pesticides when either a certified
41 applicator or registered pest control technician is physically present.

42 (b) *Registered pest control technicians may not supervise the use of,*
43 *or apply, any restricted use pesticide unless the application is supervised*

1 *by a commercial applicator who is certified to apply restricted use*
 2 *pesticides for the control of pests in the category or subcategory for which*
 3 *the pesticide application is made. The secretary may adopt rules and*
 4 *regulations to prescribe requirements concerning the direct supervision of*
 5 *registered pest control technicians by certified applicators.*

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

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

19 (d)(e) This section shall be a part of and supplemental to the Kansas
 20 pesticide law.

21 Sec. 5. K.S.A. 2-2440e is hereby amended to read as follows: 2-
 22 2440e. (a) ~~Any pesticide business licensee or pesticide dealer who~~ *person*
 23 *or entity that violates any of the provisions* ~~of K.S.A. 2-2453 or~~
 24 ~~2-2454, and amendments thereto~~ *the Kansas pesticide law or any rules or*
 25 *regulations adopted thereunder*; in addition to any other penalty provided
 26 by law, may incur a civil penalty imposed under subsection (b) in the
 27 amount fixed by rules and regulations of the secretary in an amount not
 28 less than \$100 nor more than \$5,000 for each violation and, in the case of a
 29 continuing violation, every day such violation continues may be deemed a
 30 separate violation.

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

40 (c) No civil penalty shall be imposed pursuant to this section except
 41 upon the written order ~~of the duly authorized agent of the secretary to the~~
 42 ~~pesticide business licensee or pesticide dealer who committed the~~
 43 ~~violation~~. Such order shall state the violation, the penalty to be imposed

1 and the right of such ~~pesticide business licensee or pesticide dealer~~ *person*
2 *or entity* to appeal to the secretary. Any such ~~licensee or dealer, within 20~~
3 ~~days after notification,~~ *person or entity* may make written request to the
4 secretary for a hearing or informal conference hearing in accordance with
5 the provisions of the Kansas administrative procedure act. ~~The secretary~~
6 ~~shall affirm, reverse or modify the order and shall specify the reasons~~
7 ~~therefor.~~

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

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

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

17 Sec. 6. K.S.A. 2-2443a is hereby amended to read as follows: 2-
18 2443a. (a) An applicant for a commercial applicator's certificate shall show
19 upon written examination that the applicant possesses adequate knowledge
20 concerning the proper use and application of pesticides in the categories or
21 subcategories for which the applicant has applied. A commercial applicator
22 who holds a current certificate to apply pesticides commercially in any
23 other state or political subdivision of the United States may be exempted
24 from examination for certification in this state upon approval of the
25 secretary and payment of a \$75 fee per category, unless a fee not to exceed
26 \$75 is established in rules and regulations adopted by the secretary.

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

30 (A) *Submission of a complete and accurate application;*

31 (B) *payment of a fee of \$45; and*

32 (C) *completion of a training course approved by the secretary to*
33 *authorize such additional certification.*

34 (2) *The provisions of this subsection shall expire on December 31,*
35 *2028.*

36 (c) (1) *Notwithstanding any other provision of this section, except as*
37 *provided by paragraph (2), commercial applicator certification shall not*
38 *allow applications in the category of sodium cyanide predator control.*

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

41 (d) Applicants shall submit with each application a fee per
42 examination taken, including each category, subcategory and general core
43 examination. The examination fee shall be fixed by rules and regulations

1 adopted by the secretary, except that such fee shall not exceed \$45 per
2 examination, except that on and after July 1, 2028, such fee shall not
3 exceed \$35 per examination. Applicants who fail to pass the examination
4 may reapply and take another examination upon paying another
5 examination fee. Such fee shall be fixed by rules and regulations adopted
6 by the secretary, except that such fee shall not exceed \$45 per examination,
7 except that on and after July 1, 2028, such fee shall not exceed \$35 per
8 examination. The general core examination includes, but is not limited to,
9 the following:

- 10 (1) The proper use of the equipment.
- 11 (2) The hazards that may be involved in applying the pesticides,
12 including:
 - 13 (A) The effect of drift of the pesticides on adjacent and nearby lands
14 and other non-target organisms;
 - 15 (B) the proper meteorological conditions for the application of
16 pesticides and the precautions to be taken with such application;
 - 17 (C) the effect of the pesticides on plants or animals in the area,
18 including the possibility of damage to plants or animals or the possibility
19 of illegal pesticide residues resulting on them;
 - 20 (D) the effect of the application of pesticides to wildlife in the area,
21 including aquatic life;
 - 22 (E) the identity and classification of pesticides used and the effects of
23 their application in particular circumstances; and
 - 24 (F) the likelihood of contamination of water or injury to persons,
25 plants, livestock, pollinating insects and vegetation.
- 26 (3) Calculating the concentration of pesticides to be used.
- 27 (4) Identification of common pests to be controlled and damages
28 caused by such pests.
- 29 (5) Protective clothing and respiratory equipment for handling and
30 application of pesticides.
- 31 (6) General precautions to be followed in the disposal of containers as
32 well as the cleaning and decontamination of the equipment ~~which~~ that the
33 applicant proposes to use.
- 34 (7) Applicable state and federal pesticide laws and regulations.
- 35 (8) Any other subject ~~which~~ that the secretary deems necessary.

36 Sec. 7. K.S.A. 2-2444a is hereby amended to read as follows: 2-
37 2444a. (a) The categories of qualification for certification and licensing
38 shall include:

- 39 (1) Agricultural pest control;
- 40 (2) forest pest control;
- 41 (3) ornamental and turf pest control;
- 42 (4) seed treatment;
- 43 (5) aquatic pest control;

- 1 (6) right-of-way pest control;
 2 (7) industrial, institutional, structural and health related pest control;
 3 (8) public health pest control;
 4 (9) regulatory pest control; ~~and~~
 5 (10) demonstration and research pest control;
 6 (11) *sodium cyanide predator control*;
 7 (12) *aerial pest control*; and
 8 (13) *soil fumigation*.

9 (b) The secretary shall have authority to subdivide any category of
 10 qualification for certification or licensing enumerated in subsection (a) of
 11 this section in order to account for the special needs or business practices
 12 of this state. The secretary may also adopt any additional categories ~~he or~~
 13 ~~she~~ *the secretary* deems necessary for any reason. Any such changes in the
 14 categories enumerated in subsection (a) shall be adopted by rules and
 15 regulations of the secretary.

16 Sec. 8. K.S.A. 2-2445a is hereby amended to read as follows: 2-
 17 2445a. (a) In lieu of obtaining a commercial applicator's certificate under
 18 ~~the provisions of~~ K.S.A. 2-2441a, and amendments thereto, a private
 19 applicator's certificate may be applied for by and issued to individuals *at*
 20 *least 18 years of age* using restricted use pesticides.

21 (b) *Private applicator certification shall only be used for the purpose*
 22 *of producing any agricultural commodity on property owned or rented by*
 23 *the individual or such individual's employer, or on the property of another*
 24 ~~for no compensation other than the trading of personal services between~~
 25 ~~producers.~~

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

- 28 (A) *Sodium cyanide predator control*;
 29 (B) *non-soil fumigation*;
 30 (C) *aerial application*; or
 31 (D) *soil fumigation*.

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

35 (3) *Sodium fluoroacetate predator control applications shall not be*
 36 *allowed.*

37 (d) (1) *A certified private applicator shall successfully pass a written*
 38 *examination.*

39 (2) *The secretary may adopt rules and regulations to establish a*
 40 *training program for initial certification as an alternative to the written*
 41 *examination.*

42 (e) Such certificates shall expire on the anniversary of the individual's
 43 date of birth occurring in the fifth calendar year following the year of issue

1 *and may be renewed for an additional five years by retaking the private*
 2 *applicator examination or by attending recertification training pursuant to*
 3 *K.S.A. 2-2446, and amendments thereto.*

4 *(f) Restricted use pesticides may be used only by a certified*
 5 *applicator or by an uncertified applicator working under the direct*
 6 *supervision of a certified applicator. No certification shall be required*
 7 *hereunder for individuals operating under the supervision of a certified*
 8 *private applicator, but such supervised applicators shall be at least 18*
 9 *years of age. If supervised by a relative or family member, the supervised*
 10 *applicator shall be at least 16 years of age.*

11 ~~(b)(1)(g) Certified-Private applicator-certificates certification~~ may be
 12 issued to individuals who have: ~~(A) — complied with all other applicable~~
 13 ~~requirements and~~ paid a fee fixed by rules and regulations adopted by the
 14 secretary, except that on and after July 1, 2028, such fee shall not exceed
 15 \$10; and ~~(B) — acquired practical knowledge of pest problems, proper~~
 16 ~~storage, use, handling and disposal of pesticides and pesticide containers,~~
 17 ~~pertinent information found on the pesticide labels, pesticide use safety~~
 18 ~~and environmental considerations, either through Kansas state university~~
 19 ~~extension service educational training or through individual study of~~
 20 ~~educational materials available at county extension offices or the secretary.~~

21 ~~(2) The certified private applicator certificate fee in effect on the day~~
 22 ~~preceding the effective date of this act shall continue in effect until the~~
 23 ~~secretary adopts rules and regulations fixing a different fee therefor under~~
 24 ~~this section. Individuals shall indicate adequate knowledge of the subjects~~
 25 ~~enumerated herein by passing an open-book examination approved by the~~
 26 ~~secretary.~~

27 ~~(c) Educational materials and examination blanks shall be made~~
 28 ~~available at county extension offices and at places where extension~~
 29 ~~educational training is conducted. The examinations shall be scored by~~
 30 ~~members of the extension or secretary's staff. If an individual passes the~~
 31 ~~examination by equaling or exceeding a standard authorized by the~~
 32 ~~secretary, a certified private applicator's certificate shall be issued to such~~
 33 ~~individual. Such staff member shall send a copy of the certificate issued,~~
 34 ~~together with the fee, to the secretary such applicators shall be subject to~~
 35 ~~any testing or training fee established in rules and regulations adopted by~~
 36 ~~the secretary, in an amount not to exceed \$75.~~

37 ~~(d)(h) A certified applicator who holds a current certificate~~
 38 ~~certification to apply pesticides as a certified private applicator in any~~
 39 ~~other state or political subdivision of the United States may be exempted~~
 40 ~~from examination for private applicator certification in this state upon~~
 41 ~~payment of proper fees and approval by the secretary.~~

42 Sec. 9. K.S.A. 2-2446 is hereby amended to read as follows: 2-2446.

43 (a) A commercial applicator's certification may be renewed for a

1 succeeding three-year period by paying the fees prescribed in K.S.A. 2-
2 2441a, and amendments thereto, passing the examinations provided for in
3 K.S.A. 2-2443a, and amendments thereto, and completing the renewal
4 application form prescribed by the secretary.

5 (b) In lieu of such examinations, the secretary may accept attendance
6 and satisfactory completion of a training course approved by the secretary.
7 If certification is renewed by training, the renewal application form shall
8 be accompanied by a recertification-by-training fee of \$50 per category
9 unless a fee not to exceed \$50 is established in rules and regulations
10 adopted by the secretary.

11 (c) A certified commercial applicator may recertify by training
12 following the expiration of the certification period, if:

13 (1) All training requirements were completed during the certification
14 period; and

15 (2) the renewal application form and all appropriate fees were
16 received by the secretary on or before 30 days following expiration of the
17 certification period.

18 (d) (1) A private applicator's certification may be renewed for a
19 succeeding five-year period by paying the fee prescribed in K.S.A. 2-
20 2445a, and amendments thereto, passing the examination provided for in
21 K.S.A. 2-2445a, and amendments thereto, and completing the renewal
22 application form prescribed by the secretary. ~~Such examination shall be~~
23 ~~offered by the secretary by mail.~~ County extension agricultural meetings
24 shall include pertinent pesticide information for private applicators.

25 ~~(e)(2)~~ *In lieu of such private applicator examination, the secretary*
26 *may accept attendance and satisfactory completion of a training course*
27 *approved by the secretary pursuant to K.S.A. 2-2445a, and amendments*
28 *thereto. If certification is renewed by training, the renewal application*
29 *form shall be accompanied by a recertification-by-training fee of \$50*
30 *unless a fee not to exceed \$50 is established in rules and regulations*
31 *adopted by the secretary.*

32 (e) A pest control technician's registration may be renewed for a
33 succeeding one-year period by paying the fees prescribed in K.S.A. 2-
34 2440b, and amendments thereto, completing the renewal form prescribed
35 by the secretary, and completing any requirements concerning retraining
36 prescribed by rules and regulations.

37 Sec. 10. K.S.A. 2-2448 is hereby amended to read as follows: 2-2448.

38 (a) Except as provided by subsection (b), the secretary shall not issue a
39 pesticide business license until the applicant has furnished proof of
40 financial responsibility by ~~one of the following:~~

41 ~~(1) A surety bond in an amount not less than \$6,000 per year. The~~
42 ~~bond shall be executed by a corporate surety and shall state the effective~~
43 ~~date and the expiration date. The surety bond shall be executed on a form~~

1 approved by the secretary. The applicant shall be named as the principal in
2 the bond. Such bond shall be to the state of Kansas and shall be
3 conditioned upon compliance by the principal and by the principal's
4 officers, agents, representatives and employees, with the provisions of this
5 act and acts amendatory thereof and supplemental thereto. It shall be
6 unlawful for any licensed person to use the words "bond" or "bonded" in
7 advertising or in publicizing such person's operations in connection with
8 the application of pesticides unless such bond is a performance bond and
9 that fact and the amount of such bond are specified.

10 (2) — *providing* a certificate of liability insurance. The certificate of
11 liability insurance shall be executed by an insurance company authorized
12 to do business in Kansas or by a licensed insurance agent operating under
13 authority of K.S.A. 40-246b, and amendments thereto, and shall state the
14 effective date and the expiration date of the policy. Such liability insurance
15 shall be subject to the insurer's policy provisions filed with and approved
16 by the commissioner of insurance pursuant to K.S.A. 40-216, and
17 amendments thereto, except as authorized by K.S.A. 40-246b, and
18 amendments thereto. The liability insurance policy shall provide: ~~(A)~~ (1)
19 Coverage for not less than \$25,000 for bodily injury liability for each
20 occurrence; and ~~(B)~~ (2) coverage for not less than \$5,000 for property
21 damage liability for each occurrence. In addition to the coverage specified
22 above, if the applicant for a pesticide business license is an aerial
23 applicator, the liability insurance policy shall provide coverage for any
24 pesticide such applicant will be applying and for comprehensive chemical
25 coverage. Pesticide application equipment, if required to be registered
26 under K.S.A. 2-2456, and amendments thereto, shall be covered. The
27 insurer shall notify the secretary, in writing, of any expiration, reduction or
28 cancellation of liability insurance, furnished as a prerequisite of licensure,
29 not later than 10 days before the expiration, reduction or cancellation takes
30 effect. Upon expiration, reduction or cancellation of the liability insurance,
31 the secretary shall suspend such pesticide applicator's business license
32 until the insurance requirement is met by the licensee for the current
33 license period. The certificate shall be executed on a form approved by the
34 secretary.

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

43 (4) — Maintaining a minimum balance of \$6,000 in an escrow account

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

8 (b) Before June 1, 1994, the financial responsibility and proof of
9 financial responsibility required pursuant to this section prior to March 1,
10 1994, shall continue to apply to any pesticide business holding a valid
11 pesticide business license on February 28, 1994, and no different or
12 additional financial responsibility or proof of financial responsibility shall
13 be required of such business. On or before June 1, 1994, each pesticide
14 business licensed before March 1, 1994, shall furnish to the secretary proof
15 of financial responsibility conforming to the requirements of this section
16 as amended by this act.

17 (c) The requirements of this section as amended by this act shall
18 apply to any applicant applying for an original pesticide business license
19 on or after March 1, 1994, and no different or additional financial
20 responsibility or proof of financial responsibility shall be required of such
21 applicant.

22 (b) (1) *Prior to January 1, 2025, any existing proof of financial*
23 *responsibility that has been properly filed with the secretary and remains*
24 *valid shall fulfill the proof of financial responsibility requirements of the*
25 *Kansas pesticide law.*

26 (2) *On and after January 1, 2025, pesticide business licensees and*
27 *applicants shall have a certificate of liability insurance properly filed with*
28 *the secretary in accordance with the provisions of this section to fulfill the*
29 *proof of financial responsibility requirements of the Kansas pesticide law.*

30 Sec. 11. K.S.A. 2-2449 is hereby amended to read as follows: 2-2449.
31 The secretary may deny, suspend, revoke or modify the provisions of any
32 license, registration, permit or certificate issued under this act, if the
33 secretary finds, after notice and opportunity for a hearing are given in
34 accordance with the provisions of the Kansas administrative procedure act,
35 that the applicant, licensee, registrant, permit holder or certificate holder
36 has:

37 (a) Been convicted of or pleaded guilty to a violation of this act, or
38 been convicted of or pleaded guilty to a felony under the laws of this state
39 or of the United States, if the secretary determines, after investigation, that
40 such person has not been sufficiently rehabilitated to warrant the public
41 trust;

42 (b) failed to comply with any provision or requirement of this act or
43 any rule and regulation adopted thereunder; or any of the laws or rules and

1 regulations of any other state or the United States relating to licensing or
2 other provisions concerning pesticide use or control; or

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

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

7 (a) If the ~~surety bond, certificate of liability insurance, letter of credit or~~
8 ~~proof of an escrow account~~ previously furnished by the licensee expires or
9 is canceled or terminated, the secretary shall suspend without a hearing the
10 pesticide business license until ~~an acceptable substitute surety bond, letter~~
11 ~~of credit, proof of an escrow account or a~~ certificate establishing
12 acceptable replacement of liability insurance is supplied.

13 (b) If the pesticide business fails to employ one or more commercial
14 applicators certified in each category and subcategory in which the
15 pesticide business makes commercial pesticide applications, the secretary
16 may suspend, without a hearing, the pesticide business license for that
17 category until the pesticide business employs a commercial applicator with
18 the appropriate certification.

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

20 (a) Each pesticide business shall present to each customer for whom such
21 business performs a pest control service involving the application of
22 pesticides a statement of services or contract setting forth the following
23 information:

24 (1) Business name ~~and~~, address *and license number* of the pesticide
25 business licensee;

26 (2) name and address of the customer;

27 (3) pest or pests to be controlled, which may be stated in general
28 terms;

29 (4) pesticide to be used including the quantity applied and total area
30 to which the pesticide is applied;

31 (5) the concentration or rate of application, when applicable;

32 (6) the date ~~and~~, location *and start and end time* of the application of
33 the pesticide;

34 (7) the expiration date of all guarantees, if any be given;

35 (8) the signature *and applicator certification number* of the individual
36 who performed the pest control service or the application of pesticides;

37 (9) the signature *and applicator certification number* of the individual
38 who supervised the performance of the pest control service or the
39 application of pesticides, when applicable;

40 (10) the wind direction and velocity, when applicable; and

41 (11) that the application was less than label rate, when applicable.

42 (b) Whenever the service involving the application of pesticides is
43 performed for the purpose of controlling termites, powder-post beetles,

1 wood borers, wood-rot fungus or any other wood destroying pest, the
2 following information shall be included in addition to that required under
3 subsection (a):

4 (1) The conditions under which retreatments, if any are to be made;

5 (2) the approximate date or dates of inspections, for any to be made
6 after the original application of the pesticide; and

7 (3) a diagram of the structure to be treated, showing the location of
8 visible evidence of active and inactive infestations by any wood destroying
9 pest or pests for which the treatment is proposed; where a partial or spot
10 treatment is to be made, this diagram shall also show the area or areas of
11 the structure ~~which~~ that are to be treated.

12 (c) (1) The required statement of services or contract for services
13 involving the application of pesticides may be incorporated into any
14 business form used by the pesticide business licensee.

15 (2) The statement of services or contract shall be presented to the
16 customer in paper format, unless the customer agrees to receive all or part
17 of the statement of services or contract in electronic format.

18 (3) The pesticide business licensee shall present the statement of
19 services or contract to the customer within 30 days of when the pest
20 control services were provided and prior to the due date for payment of the
21 services, if the services are not a prepaid agreement. Upon the customer's
22 request, the statement of services or contract shall be presented to the
23 customer no later than the close of business on the business day following
24 the request.

25 (4) Upon request of the secretary or the secretary's designee, a
26 duplicate of the statement of services or contract provided to the customer
27 shall be made available within two business days to the secretary or the
28 secretary's designee.

29 (5) Any pesticide business licensee using aerial methods of applying
30 pesticides may present such information at any time prior to the time
31 payment is accepted.

32 (6) The statement of services or contract may be signed using the
33 legible printed names of the individuals who performed and, when
34 applicable, supervised the performance of the pest control service or the
35 application of pesticide.

36 (7) The pesticide business licensee shall retain a copy of each
37 statement of services or contract in such licensee's files for a period of
38 three years from the expiration date of any statement of services or
39 contract.

40 (8) Each pesticide business licensee shall faithfully carry out the
41 stipulations set forth in any statement of services or contract prepared by
42 such licensee or any of its representatives.

43 (d) Each pesticide business licensee shall make available to the

1 secretary upon request, a copy of any statement of services or contract,
2 records of all pesticide applications during any specified period, records of
3 all employees who performed any service involving, or in conjunction
4 with, the application of pesticides and any other requested information
5 pertinent to the administration of this act or any rule or regulation adopted
6 hereunder by the secretary.

7 (e) (1) *Each government agency shall maintain records relating to*
8 *each application of pesticide made by such government agency.*

9 (2) *Such records shall be provided to the secretary upon request.*

10 (3) *Such records shall include the following information:*

11 (A) *The name, complete street address and registration number of the*
12 *government agency;*

13 (B) *the pest or pests to be controlled, which may be stated in general*
14 *terms;*

15 (C) *the pesticide to be used, including the quantity applied and total*
16 *area where the pesticide is applied;*

17 (D) *the concentration or rate of application, when applicable;*

18 (E) *the date, location and start and end time of the application of the*
19 *pesticide;*

20 (F) *the signature and applicator certification number of the*
21 *individual who performed the pest control service or the application of*
22 *pesticides;*

23 (G) *the signature and applicator certification number of the*
24 *individual who supervised the performance of the pest control service or*
25 *the application of pesticides, when applicable;*

26 (H) *the wind direction and velocity, when applicable;*

27 (I) *that the application was less than label rate, when applicable;*

28 (J) *the complete product name of the pesticide as the name appears*
29 *on the label; and*

30 (K) *the pesticide EPA registration number.*

31 (f) *Pesticide business licensees and government agencies shall create*
32 *or verify the existence of records documenting that each uncertified*
33 *applicator has the necessary qualifications as set forth in rules and*
34 *regulations adopted by the secretary.*

35 (g) *The secretary shall require certified commercial applicators who*
36 *are not employed by or otherwise acting for a pesticide business licensee*
37 *to maintain records concerning applications of ~~restricted-use~~ pesticides.*
38 *The secretary shall specify by rules and regulations the information to be*
39 *contained in such records, ~~which~~. Such records shall be maintained for*
40 *three years from the date of application of the pesticide concerned. Such*
41 *records shall be open to inspection by the secretary or the secretary's*
42 *designee during normal business hours, and copies shall be furnished to*
43 *the secretary or the secretary's designee upon request.*

1 Sec. 14. K.S.A. 2-2461 is hereby amended to read as follows: 2-2461.

2 (a) Any person ~~other than a certified private applicator~~ violating or failing
3 to comply with any provision of this act or any authorized rule or
4 regulation of the secretary shall be deemed guilty of a class A
5 misdemeanor. Each separate violation shall constitute a separate offense.

6 (b) ~~Any certified private applicator who violates any of the provisions
7 of this act or any authorized rules and regulations of the secretary shall be
8 deemed guilty of a misdemeanor, and upon conviction shall be punished
9 by a fine of not less than \$100 and not more than \$500. Each day of
10 operation after notice shall constitute a separate offense.~~

11 (c) The district courts of Kansas shall have jurisdiction to restrain
12 violations of this act by injunction without the institution of criminal
13 proceedings. ~~Said~~ *Such* injunction shall be issued without bond.

14 Sec. 15. K.S.A. 2-2467a is hereby amended to read as follows: 2-
15 2467a. The secretary is hereby authorized to promulgate and adopt rules
16 and regulations for the administration of this act ~~and concerning the
17 following matters which include, but are, including, but~~ not limited to:

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

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

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

24 (d) the designation of training requirements for those persons
25 applying for a pest control technician's registration as provided in K.S.A.
26 2-2440b, and amendments thereto;

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

30 (f) the storing and discarding of pesticides, pesticide materials,
31 pesticide rinsates and pesticide containers;

32 (g) proper health and safety precautions;

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

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

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

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

42 Sec. 16. K.S.A. 2-3310 is hereby amended to read as follows: 2-3310.

43 The secretary, after notice and opportunity for a hearing in accordance

1 with the provisions of the Kansas administrative procedure act, may deny,
2 suspend, revoke or modify the provisions of any permit issued under this
3 act, if the secretary finds that the applicant, registrant or permit holder has:

4 (a) Been convicted of or pleaded guilty to a violation of this act or the
5 Kansas pesticide law; ~~or has been convicted of or pleaded guilty to a~~
6 ~~felony under the laws of this state or of the United States, if the board~~
7 ~~determines, after investigation, that such person has not been sufficiently~~
8 ~~rehabilitated to warrant the public trust;~~

9 (b) failed to comply with any provision or requirement of this act or
10 any rule and regulation adopted thereunder; or

11 (c) had any certificate, registration or permit issued under this act or
12 the Kansas pesticide law revoked.

13 Sec. 17. K.S.A. 2-2438a, 2-2440, 2-2440b, 2-2440e, 2-2443a, 2-
14 2444a, 2-2445a, 2-2446, 2-2448, 2-2449, 2-2450, 2-2455, 2-2461, 2-2467a
15 and 2-3310 are hereby repealed.

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