

HOUSE BILL No. 2607

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide ~~which that~~ is classified for restricted use for purposes of producing any agricultural commodity, (A) on property owned or rented by such person or such person's employer or (B) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

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

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

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

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

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

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

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

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

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

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

(n) "Pesticide" means, but is not limited to, (1) any substance or mixture of substances used to prevent, destroy, control, repel, attract or mitigate any pest and (2) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant.

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

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

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

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

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

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

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

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

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

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

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

(z) "Natural resources" means and includes soils, water and any form of terrestrial or aquatic or animal life.

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

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

Sec. 3. 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 that 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 on a form obtained from the secretary 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 shall be \$140 per category in which the licensee applies, except that on and after July 1, 2028, the application fee per category shall be \$112 per category in which the licensee applies. An additional fee of \$15 shall be paid for each uncertified individual employed by the applicant to apply pesticides, except that on and after July 1, 2028, an additional fee of \$10 shall be paid 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 secretary adopts rules and regulations fixing a different fee 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 if the applicant files the ~~bond~~, *surety bond or certificate of liability* 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 that has not been issued a government

agency registration to apply pesticides within this state. *Government agency registration shall be required for pesticide applications in the sodium cyanide predator control category, and applicators in this category shall have sodium cyanide predatory control certification.* Application for government agency registration shall be made on a form obtained from the secretary and shall be accompanied by a fee fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$50, except that on and after July 1, 2028, 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 secretary adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county that 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~~ *proof of financial responsibility* 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.

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

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

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

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

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

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

Sec. 5. K.S.A. 2-2440e is hereby amended to read as follows: 2-2440e. (a) (1) Any pesticide business licensee or pesticide dealer who violates any of the provisions ~~provision of K.S.A. 2-2453 or 2-2454, and amendments thereto~~ *the Kansas pesticide law or any rules or regulations adopted thereunder*, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation. *In the case of a continuing violation, the maximum civil penalty shall not exceed \$10,000.*

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

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

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

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

(d) Any *pesticide business licensee, pesticide dealer or person* aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

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

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

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

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

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

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

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

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

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

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

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

(1) The proper use of the equipment.

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

- (A) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;
  - (B) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;
  - (C) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;
  - (D) the effect of the application of pesticides to wildlife in the area, including aquatic life;
  - (E) the identity and classification of pesticides used and the effects of their application in particular circumstances; and
  - (F) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.
- (3) Calculating the concentration of pesticides to be used.
  - (4) Identification of common pests to be controlled and damages caused by such pests.
  - (5) Protective clothing and respiratory equipment for handling and application of pesticides.
  - (6) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment ~~which~~ *that* the applicant proposes to use.
  - (7) Applicable state and federal pesticide laws and regulations.
  - (8) Any other subject ~~which~~ *that* the secretary deems necessary.

Sec. 7. K.S.A. 2-2444a is hereby amended to read as follows: 2-2444a. (a) (1) The categories of qualification for certification and licensing shall include:

- ~~(1)~~(A) Agricultural pest control;
  - ~~(2)~~(B) forest pest control;
  - ~~(3)~~(C) ornamental and turf pest control;
  - ~~(4)~~(D) seed treatment;
  - ~~(5)~~(E) aquatic pest control;
  - ~~(6)~~(F) right-of-way pest control;
  - ~~(7)~~(G) industrial, institutional, structural and health related pest control;
  - ~~(8)~~(H) public health pest control;
  - ~~(9)~~(I) regulatory pest control; ~~and~~
  - ~~(10)~~(J) demonstration and research pest control;
  - (K) *sodium cyanide predator control*;
  - (L) *aerial pest control*; and
  - (M) *soil fumigation*.
- (2) *Sodium fluoroacetate predator control applications shall not be allowed.*

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

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

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

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

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

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

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

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

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

*(e) Such certificates shall expire on the anniversary of the individual's date of birth occurring in the fifth calendar year following the year of issue and may be renewed for an additional five years by retaking the private applicator examination or by attending recertification training pursuant to K.S.A. 2-2446, and amendments thereto.*

*(f) Restricted use pesticides may be used only by a certified applicator or by an uncertified applicator working under the direct supervision of a certified applicator. No certification shall be required hereunder for individuals operating under the direct supervision of a certified private applicator, but such supervised applicators shall be at least 18 years of age. If the uncertified applicator is directly supervised by a relative or family member and is applying restricted use pesticides for the purpose of producing any agricultural commodity on property owned or leased by the individual or such individual's relative or family member, then the supervised applicator shall be at least 16 years of age.*

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

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

~~(c) Educational materials and examination blanks shall be made available at county extension offices and at places where extension educational training is conducted. The examinations shall be scored by members of the extension or secretary's staff. If an individual passes the examination by equaling or exceeding a standard authorized by the secretary, a certified private applicator's certificate shall be issued to such individual. Such staff member shall send a copy of the certificate issued, together with the fee, to the secretary such applicators shall be subject to any testing or initial training fee established in rules and~~

*regulations adopted by the secretary, in an amount not to exceed \$75.*

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

Sec. 9. K.S.A. 2-2446 is hereby amended to read as follows: 2-2446. (a) A commercial applicator's certification may be renewed for a succeeding three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

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

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

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

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

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

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

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

Sec. 10. K.S.A. 2-2448 is hereby amended to read as follows: 2-2448. (a) Except as provided by subsection (b), the secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility by one of the following:

(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 amendments~~ 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 such designation~~ 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; and (B) coverage for not less than \$5,000 for property damage liability for each occurrence. In addition to the coverage specified above, if the applicant for a pesticide business license is an aerial applicator, the liability insurance policy shall provide coverage for any pesticide such applicant will be applying and 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 insurer shall notify the secretary, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as a prerequisite of licensure, not later than 10 days before the expiration, reduction or cancellation takes effect. Upon expiration, 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 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 term 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.~~

~~(4) Maintaining a minimum balance of \$6,000 in an escrow account in a Kansas financial institution as defined in K.S.A. 16-117, and amendments thereto. The escrow account shall maintain the minimum balance through the term of the applicant's business license. 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 applicator's business license until the escrow account minimum balance is at \$6,000.~~

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

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

~~required of such applicant.~~

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

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

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

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

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

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

Sec. 12. K.S.A. 2-2450 is hereby amended to read as follows: 2-2450. (a) If the surety bond; *or* certificate of liability insurance; ~~letter of credit or proof of an escrow account~~ previously furnished by the licensee expires or is canceled or terminated, the secretary shall suspend without a hearing the pesticide business license until an acceptable substitute surety bond, ~~letter of credit, proof of an escrow account~~ or a certificate establishing acceptable replacement of liability insurance is supplied.

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

Sec. 13. K.S.A. 2-2455 is hereby amended to read as follows: 2-2455. (a) Each pesticide business shall present to each customer for whom such business performs a pest control service involving the application of pesticides a statement of services or contract setting forth the following information:

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

(2) name and address of the customer;

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

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

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

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

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

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

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

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

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

(b) Whenever the service involving the application of pesticides is performed for the purpose of controlling termites, powder-post beetles, wood borers, wood-rot fungus or any other wood destroying pest, the following information shall be included in addition to that required under subsection (a):

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

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

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

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

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

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

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

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

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

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

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

(d) Each pesticide business licensee shall make available to the secretary upon request, a copy of any statement of services or contract, records of all pesticide applications during any specified period, records of all employees who performed any service involving, or in conjunction with, the application of pesticides and any other requested information pertinent to the administration of this act or any rule or

regulation adopted hereunder by the secretary.

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

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

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

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

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

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

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

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

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

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

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

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

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

(K) *the pesticide EPA registration number.*

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

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

Sec. 14. K.S.A. 2-2461 is hereby amended to read as follows: 2-2461. (a) Any person ~~other than a certified private applicator~~ violating or failing to comply with any provision of this act or any authorized rule or regulation of the secretary shall be deemed guilty of a class A misdemeanor. Each separate violation shall constitute a separate offense.

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

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

Sec. 15. 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, including, but 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, and amendments thereto;

(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 rinsates 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 amendments thereto; and

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

Sec. 16. K.S.A. 2-3310 is hereby amended to read as follows: 2-3310. The secretary, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, may deny, suspend, revoke or modify the provisions of any permit issued under this act, if the secretary finds that the applicant, registrant or permit holder has:

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

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

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

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

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

I hereby certify that the above BILL originated in the House, and passed that body

\_\_\_\_\_

HOUSE concurred in  
SENATE amendments \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*