

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

PROPOSED AMENDMENT
House Committee on Agriculture
and Natural Resources
Office of Revisor of Statutes

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. 2-243a, 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 (E) 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 (c).~~

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)~~

, (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.~~

or (B) if applied without compensation other than trading of
 personal services between producers of agricultural commodities,
 on the property of another 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 (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 ~~to~~
 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 fluoracetate 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

, or on the property of another for no compensation other than
 the trading of personal services between producers