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Kansas Pesticide Law

Article 24. – PEST CONTROL

Kansas Statutes Annotated

2-2438a. Definitions. 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 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 is classified for restricted use for any purpose or on any property other than as provided in paragraph (2) of this subsection (c).

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide which 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 all pesticides which 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 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 applies pesticides to the property of another for compensation.

(p) "Pesticide business licensee" shall mean 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 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 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 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 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.

History: L. 1977, ch. 3, § 1; L. 1978, ch. 6, § 1; L. 1984, ch. 1, § 3; L. 1985, ch. 12, § 1; L. 1987, ch. 12, § 1; L. 1988, ch. 7, § 1; L. 1989, ch. 6, § 1; L. 2004, ch. 101, § 45; L. 2009, ch. 128, § 10; July 1.

2-2439. Administration of act; rules and regulations. The secretary is hereby authorized and empowered to administer and enforce the provisions of this act. The secretary is authorized to

promulgate rules and regulations designating certain pesticides as restricted use pesticides. The secretary shall have the authority, by rules and regulations, to make any additional changes in the classification of restricted use pesticides.

History: L. 1976, ch. 1, § 2; L. 2004, ch. 101, § 46; July 1.

2-2440. Unlawful acts; pesticide business license, requirements and fees, exemptions; government agency registration, exemptions; license and registration renewals. (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, 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. 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 94 2022 Session Laws of Kansas Ch. 9] not required to furnish a surety bond under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a registration is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(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.

History: L. 1976, ch. 1, § 3; L. 1977, ch. 3, § 2; L. 1982, ch. 4, § 8; L. 1982, ch. 7, § 1; L. 1985, ch. 13, § 1; L. 1987, ch. 12, § 9; L. 1989, ch. 6, § 12; L. 1994, ch. 199, § 1; L. 1994, ch. 336, § 4; L. 2002, ch. 181, § 3; L. 2004, ch. 85, § 3; L. 2009, ch. 128, § 11; L. 2014, ch. 133, § 1; L. 2017, ch. 86, § 3; July 1; L. 2022, ch. 9, § 3; July 1.

2-2440a. Pesticide business licensee requirements. (a) A pesticide business licensee applying pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall ensure that registered pest control technicians who handle, mix or apply pesticides have been trained as provided in this act. The pesticide business licensee shall notify the secretary within 30 days following the date of employment of the employment of a registered pest control technician or a person to be trained as a registered pest control technician. The pesticide business licensee shall ensure that all persons employed by the pesticide business who apply pesticides and who are not registered pest control technicians meet the requirements of this act within 90 days after they are employed. This requirement shall not apply to certified commercial applicators employed by the pesticide business licensee.

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

History: L. 1987, ch. 12, § 3; L. 1988, ch. 7, § 2; L. 2009, ch. 128, § 12; July 1.

2-2440b. Unlawful acts; pest control technician registration, requirements and fees. (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 pesticides when either a certified applicator or registered pest control technician is physically present.

(b) 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.

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

History: L. 1987, ch. 12, § 2; L. 1988, ch. 7, § 3; L. 2002, ch. 181, § 4; L. 2004, ch. 85, § 4; L. 2009, ch. 128, § 13; L. 2014, ch. 133, § 2; L. 2017, ch. 86, § 4; July 1; L. 2022, ch. 9, § 4; July 1.

2-2440c. Registered pest control technician; training; approval of training materials; maintenance of records verifying training.

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

(b) Within 90 days after the effective date of this act, each pesticide business licensee who applies pesticides or causes pesticides to be applied for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall submit its training materials to the secretary for approval. After initial approval, each such pesticide business licensee shall resubmit its training materials for approval every five years. Training materials submitted to the secretary shall be approved or disapproved within 60 days of the date of receipt by the secretary. If the training materials submitted are disapproved, the secretary shall provide the pesticide business licensee within 60 days of receipt of the training materials a written explanation of the reasons for such disapproval.

(c) Each pesticide business licensee who applies pesticides or causes pesticides to be applied for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests shall maintain records to verify that each registered pest control technician employed by such pesticide business licensee has been properly trained. These records shall contain the name of each person who takes the training to become a registered pest control technician, the date or dates of such training, the date the training was completed and any other information required by the secretary. These records shall be maintained for a period of three years after the training has been given. These records shall be made available to the secretary or the secretary's authorized designee upon request.

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

History: L. 1987, ch. 12, § 6; L. 1988, ch. 7, § 4; L. 2009, ch. 128, § 14; July 1.

2-2440d. Same; fees. (a) The fee for registration of each registered pest control technician shall be paid by the pesticide business licensee employing the registered pest control technician. The registration shall inure to the benefit of the pesticide business licensee and shall not be transferable.

(b) This section shall take effect and be in force from and after January 1, 1988.

History: L. 1987, ch. 12, § 7; July 1.

2-2440e. Pesticide business licensee; civil penalties; appeal procedure; deposit of moneys.

(a) Any pesticide business licensee or pesticide dealer who violates any of the provisions of K.S.A. 2-2453 or 2-2454 and amendments thereto, 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.

(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.

(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 to appeal to the secretary. Any such licensee or dealer, within 20 days after notification, 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 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 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.

History: L. 1988, ch. 7, § 5; L. 2001, ch. 5, § 16; L. 2009, ch. 128, § 15; L. 2010, ch. 17, § 12; July 1.

2-2441a. Commercial applicator's certificate; exemptions; application and fees; expiration. No individual except the following shall use any restricted use pesticide without a commercial applicator's certificate issued by the secretary: (a) Individuals applying restricted use pesticides under a private applicator certification;

(b) employees of a pesticide business licensee using only nonaerial methods of applying pesticides and who work only under the supervision of a certified commercial applicator. The secretary may authorize any certified aerial applicator to apply restricted use pesticides in a category or subcategory other than one in which such applicator is certified under the supervision of an applicator certified in the category or subcategory in which the pesticide is being applied during an emergency situation declared by the secretary with the consent of the governor;

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

(d) qualified laboratory personnel employed by recognized pesticide research facilities, using pesticides or pest control services while engaged in pesticide use research; and

(e) federal employees using pesticides as a part of their employment by a federal agency which has its own certification program which is the full equivalent of the requirements of this state.

Such a commercial applicator's certificate shall be required in addition to any other license or permit required by law for the operation or use of pesticide application equipment. Any person applying for such commercial applicator's certificate shall file an application on a form prescribed by the secretary. If the secretary finds the applicant qualified to apply pesticides in the categories or subcategories the applicant has applied for after examinations on the same basis as provided for in K.S.A. 2-2443a and amendments thereto, the secretary shall issue a commercial applicator's certificate limited to the categories or subcategories for which the applicant is qualified, which certificate shall expire at the end of the second calendar year after the year of issue. If a certificate is not issued as applied for, the secretary shall inform the applicant in writing of the reasons for such denial.

History: L. 1977, ch. 3, § 3; L. 1982, ch. 4, § 9; L. 2002, ch. 181, § 5; L. 2004, ch. 85, § 5; L. 2009, ch. 128, § 16; July 1.

2-2442. Same; temporary permit; examination. (a) Any person required to obtain a commercial applicator's certification may apply for a temporary permit. The temporary permit may be used in lieu of the regular certification, described in K.S.A. 1976 Supp. [2-2441](#), until the person is scheduled for regular examination. In no event will the period of time for use of a temporary permit exceed sixty (60) days and a second temporary permit for the same category cannot be issued to the same person during the calendar year within which such temporary permit was issued.

(b) Temporary permits may be issued to persons who have:

- (1) Completed application on a form prescribed by the secretary;
- (2) paid the fees prescribed in K.S.A. 1976 Supp. [2-2441](#); and
- (3) passed an emergency examination provided to each county extension office by the secretary.

(c) The county extension agent shall make available emergency examinations and give and grade such examinations. The county clerk will be responsible for issuing the temporary permits, collecting the fees and forwarding the fees with necessary informational records to the secretary.

History: L. 1976, ch. 1, § 5; Oct. 21, 1977.

2-2443a. Same; examination; reciprocity; fees; subjects included in examination. (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) 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, which. 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 the applicant proposes to use.

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

(8) Any other subject which the secretary deems necessary.

History: L. 1977, ch. 3, § 4; L. 1982, ch. 4, § 10; L. 2002, ch. 181, § 6; L. 2004, ch. 85, § 6; L. 2009, ch. 128, § 17; L. 2014, ch. 133, § 3; L. 2017, ch. 86, § 5; July 1; L. 2022, ch. 9, § 5; July 1.

2-2444a. Categories of qualification for certification and licensing; subdivision by secretary. (a)

The categories of qualification for certification and licensing shall include:

(1) Agricultural pest control;

(2) forest pest control;

(3) ornamental and turf pest control;

- (4) seed treatment;
- (5) aquatic pest control;
- (6) right-of-way pest control;
- (7) industrial, institutional, structural and health related pest control;
- (8) public health pest control;
- (9) regulatory pest control; and
- (10) demonstration and research pest control.

(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 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.

History: L. 1977, ch. 3, § 5; L. 2004, ch. 101, § 47; July 1.

2-2445a. Certified private applicator's certificate; qualifications; examination; fee; educational materials; reciprocity of certificates. (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 using restricted use pesticides 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. 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. No certification shall be required hereunder for individuals operating under the supervision of a certified private applicator.

(1) Certified private applicator certificates may be issued to individuals who have:

(A) 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.

(d) A certified applicator who holds a current certificate 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.

History: L. 1977, ch. 3, § 6; L. 1978, ch. 6, § 2; L. 1981, ch. 10, § 1; L. 1982, ch. 4, § 11; L. 1987, ch. 13, § 1; L. 2002, ch. 181, § 7; L. 2004, ch. 85, § 7; L. 2009, ch. 128, § 18; L. 2014, ch. 133, § 4; L. 2017, ch. 86, § 6; July 1; L. 2022, ch. 9, § 6; July 1.

2-2446. Renewal of certification or registration. (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) 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) 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.

History: L. 1976, ch. 1, § 9; L. 1981, ch. 10, § 2; L. 1987, ch. 12, § 4; L. 2009, ch. 128, § 19; July 1.

2-2447. Nonresident applicant for license; consent to action for damages; service of process.

Any nonresident applying for a license under this act to operate in the state of Kansas shall file a written irrevocable consent that any action for damages resulting from the application or misapplication of pesticides and any action to enforce the provisions of any contract providing for the application of pesticides, may be commenced against said nonresident in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside; that service of process upon the secretary of the state of Kansas may be had and that such service of process shall be valid and binding to the same extent as if personal service had been had and obtained upon said nonresident in this state.

History: L. 1976, ch. 1, § 10; Oct. 21, 1977.

2-2448. Surety bond, liability insurance, letter of credit or escrow account required for pesticide business license.

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

(2) A certificate of liability insurance. The certificate of liability insurance shall be executed by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date of the policy. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The liability insurance policy shall provide:

(A) Coverage for not less than \$25,000 for bodily injury liability for each occurrence; 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.

History: L. 1976, ch. 1, § 11; L. 1982, ch. 8, § 1; L. 1989, ch. 6, § 17; L. 1994, ch. 199, § 2; April 21.

2-2449. Grounds for denial, suspension, revocation or modification of license. 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.

History: L. 1976, ch. 1, § 12; L. 1977, ch. 3, § 7; L. 1984, ch. 313, § 44; L. 2009, ch. 128, § 20; L. 2010, ch. 60, § 3; July 1.

2-2450. Suspension of pesticide business license for failure to have surety bond, liability insurance, letter of credit or escrow account or to employ certified commercial applicator. (a) If the surety bond, 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 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.

History: L. 1976, ch. 1, § 13; L. 1985, ch. 13, § 2; L. 1994, ch. 199, § 3; L. 2009, ch. 128, § 21; L. 2011, ch. 16, § 1; July 1.

2-2452. Appeal of denial, suspension or revocation. The licensee or certificate holder may appeal from the decision and order, in accordance with the provisions of the Kansas judicial review act.

History: L. 1976, ch. 1, § 15; L. 1977, ch. 3, § 9; L. 1979, ch. 161, § 1; L. 1984, ch. 313, § 46; L. 2010, ch. 17, § 13; July 1.

2-2453. Unlawful acts. It shall be unlawful for any person to: (a) Except as provided for in K.S.A. 2-2470, use pesticides in a manner which is inconsistent with such pesticide's label or labeling; or

(b) discard or store any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or waterways and wildlife therein; or

(c) fail to comply with any other provision of this act or any rule or regulation adopted pursuant thereto.

History: L. 1976, ch. 1, § 16; L. 1977, ch. 3, § 10; L. 1989, ch. 6, § 13; July 1.

2-2454. Unlawful acts. It shall be unlawful for any person required to be licensed, registered or certified under the provisions of this act to: (a) Make false or fraudulent claims through any media, misrepresenting the effect of material or methods to be utilized

(b) except as provided for in K.S.A. 2-2470, and amendments thereto, make a pesticide recommendation or use not in accordance with the directions for use shown on the label registered under the Kansas agricultural chemical act or by the environmental protection agency, or both;

(c) knowingly use ineffective or improper methods or materials;

(d) knowingly operate faulty, unsafe or, if registration is required, unregistered equipment, or operate any equipment in a negligent manner;

(e) refuse or neglect to keep and maintain records required by this act, or refuse or neglect to make records available when and as required by this act;

(f) make false or fraudulent records, invoices or reports;

(g) use fraud or misrepresentation in making an application for or renewal of a license, registration, permit or certificate;

(h) refuse or neglect to comply with any limitations or restrictions on or in a duly issued license, registration, permit or certificate;

(i) aid, abet or conspire with any person to evade any of the provisions of this act, or allow a license, registration, permit or certificate to be used by an unlicensed or uncertified person;

(j) impersonate any state, county or city inspector or official, as acting in their official capacity;

(k) make any misrepresentation or defraud any member of the public;

(l) permit a pesticide business license or contract forms to be used by any unlicensed person who is not a salaried or commissioned employee or representative of such licensee, for use in applying pesticides under any commission or subcontracting arrangement;

(m) use any method or material without regard to public health, safety or welfare;

(n) engage in or advertise to provide pest control services without benefit of proper licenses, certification or registration;

(o) use, store, dispose of any pesticide material, pesticide rinsate or container without regard to public health or environmental damage;

(p) fail to maintain and provide a copy of pesticide product labels and material safety data sheets to customers when so requested;

(q) use any pesticide in a manner inconsistent with limitations imposed by the secretary pursuant to K.S.A. 2-2471.

(r) distribute, sell, make available for use or use any restricted use pesticide other than by a certified applicator or under the supervision of a certified applicator;

(s) distribute, sell or offer for sale any pesticide unless it is in the pesticide registrant's or the pesticide manufacturer's unbroken immediate container and there is affixed to such container the registrant's label which is complete and legible and which can be read through any package wrappers;

(t) distribute, sell or offer for sale any pesticide product with altered, defaced or detached labeling;
or

(u) distribute, sell or offer for sale any pesticide product with pesticide or pesticide residue on the container or packaging.

History: L. 1976, ch. 1, § 17; L. 1989, ch. 6, § 14; L. 2009, ch. 128, § 22; July 1.

2-2455. Written statement for services to customer; records, maintenance and availability to secretary. (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 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 of the application of the pesticide;

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

(8) the signature of the individual who performed the pest control service or the application of pesticides;

(9) the signature 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 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) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a 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 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.

History: L. 1976, ch. 1, § 18; L. 1977, ch. 3, § 11; L. 1989, ch. 6, § 15; L. 1995, ch. 37, § 1; L. 2009, ch. 128, § 23; L. 2018, ch. 20, § 2; July 1.

2-2456. Registration and marking of equipment. (a) The secretary may, at his or her discretion, require the registration of any equipment used in the commercial application of pesticides, and any equipment required to be so registered may be marked for identification in a manner prescribed by the secretary. Unannounced inspections may be made without charge to determine if the equipment is properly calibrated and maintained in conformance with laws and rules and regulations, and the secretary may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by rules and regulations.

(b) The secretary may, in his or her discretion, require that any car, truck or other vehicle used for the purpose of applying pesticides or transporting pesticide application equipment or personnel to an application site be marked for identification purposes in a location and manner as the secretary shall prescribe: Provided, that such application is for the purpose of controlling pests in the categories of either

(1) ornamental and turf pest control, or

(2) industrial, institutional, structural and health related pest control.

History: L. 1976, ch. 1, § 19; Oct. 21, 1977.

2-2457a. Statement of claim of damage from pesticide application; filing with secretary; forms; effect of failure to file. (a) Because pesticides have short residual life, a person damaged from pesticide application shall file with [the] secretary, within 60 days after the date the damage was discovered, a written statement, on a form prescribed by the secretary, claiming that the person has been damaged. The statement shall contain, but shall not be limited to, the name of the person responsible for the application of the pesticide, if known, the name of the owner or lessee of the land on which the pesticide was being applied at the time the alleged damage occurred, if known, and the name of the owner or lessee of the land on which it is alleged that the damage occurred.

(b) The secretary shall prepare a form to be furnished to persons for use in such cases and such

forms shall contain such other information as the secretary may deem proper. The secretary shall send a duplicate copy of this statement to the person responsible for the application of the pesticide, if known, and to the owner or lessee of the land to which the pesticide was being applied at the time the alleged damage occurred, if known, or other person who may be charged with the responsibility for the alleged damage.

(c) The failure to file a report pursuant to this section:

(1) Shall create a rebuttable presumption that the alleged damage did not result from the pesticide application;

(2) shall not preclude the maintenance of any criminal or civil action; and

(3) shall not constitute a violation of the Kansas pesticide law.

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

History: L. 1986, ch. 8, § 1; April 17.

2-2459a. Courses of instruction. The secretary may, in cooperation with Kansas state university, any other educational institutions of this state or of any other state, state and federal agencies, or any other person, publish information and conduct short courses of instruction in the safe use and application of pesticides.

History: L. 1977, ch. 3, § 12; L. 2010, ch. 50, § 1; July 1.

2-2460a. Cooperation with other agencies; educational institutions or persons. The secretary may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions, with any agency or educational institution of any other state, with the federal government, or with any other person for the purpose of carrying out the provisions of this act or securing uniformity of regulations.

History: L. 1977, ch. 3, § 13; L. 2010, ch. 50, § 2; July 1.

2-2461. Penalties; injunction. (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 or 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 injunction shall be issued without bond.

History: L. 1976, ch. 1, § 24; L. 1977, ch. 3, § 14; L. 2004, ch. 101, § 48; July 1.

2-2462. Enforcement. For the purposes of carrying out the provisions of this act, the secretary or his or her agent or the county or district attorney or their agents may enter any premises at any reasonable time, in order:

(1) To have access for the purpose of inspecting any equipment subject to this act and such premises on which such equipment is kept or stored; or

(2) to inspect or sample lands and crops actually or reported to be exposed to pesticides; or

(3) to inspect storage or disposal areas; or

(4) to inspect or investigate complaints of injury to humans, crops or land; or

(5) to sample pesticides being applied or to be applied; or

(6) to observe the use and application of a pesticide.

Should the secretary, his or her agent or the county or district attorney or their agents be denied access to any land where such access was sought for the purposes authorized, the secretary or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

The enforcement of the criminal provisions of this act shall be the duty of, and shall be implemented by, the county or district attorneys of the various counties or districts. In the event a county or district attorney refuses to act, the attorney general shall so act. The secretary is charged with the duty of enforcing all other provisions of this act.

History: L. 1976, ch. 1, § 25; Oct. 21, 1977.

2-2463. Subpoenas. The secretary may issue subpoenas to compel the attendance of witnesses and/or production of books, documents and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, registration, certificate or permit issued under the provisions of this act.

History: L. 1976, ch. 1, § 26; Oct. 21, 1977.

2-2464a. Disposition of moneys; pesticide use fee fund. The secretary shall remit all moneys received by or for the secretary under this act and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pesticide use fee fund. All expenditures from the pesticide use fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by such secretary.

History: L. 1977, ch. 3, § 15; L. 1994, ch. 336, § 5; L. 2001, ch. 5, § 17; L. 2004, ch. 101, § 49; July 1.

2-2467a. Rules and regulations. The secretary is hereby authorized to promulgate and adopt rules and regulations for the administration of this act and concerning the following matters which include but are not limited to:

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

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

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

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

History: L. 1977, ch. 3, § 16; L. 1987, ch. 12, § 5; L. 1989, ch. 6, § 16; L. 1994, ch. 199, § 5; April 21.

2-2468. Citation of act. This shall be known and may be cited as the "Kansas pesticide law."

History: L. 1976, ch. 1, § 31; Oct 21, 1977.

2-2469. Pesticide dealers; registration; exemptions; denial, suspension or revocation, notice

and opportunity for hearing; fees. (a) Each person who is a pesticide dealer shall register with the secretary. Registration shall be required for each business location distributing pesticides and shall be on a form provided by the secretary. Each registration shall expire on June 30 following issuance unless such registration is renewed annually. A registration fee of \$20 shall accompany the application.

(b) The provisions of this section shall not apply to a licensed pesticide business which sells pesticides only as an integral part of such business' pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application, nor to the sale of general use pesticides purchased for household use only, nor to any federal, state, county or municipal agency which provides pesticides only for its own programs nor to any individual who is the final purchaser of a pesticide for application to property or property rights owned, leased, or otherwise acquired by such person.

(c) Each registered pesticide dealer is responsible for the acts of each individual employed by such dealer in the solicitation and sale of pesticides and for all claims and recommendations for use of pesticides made by such employees. The dealer's registration shall be subject to denial, suspension, or revocation after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(d) All fees received under this section shall be remitted to the state treasurer in accordance with K.S.A. [2-2464a](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and 75% of such amount shall be credited to the pesticide use fee fund and 25% of each such amount shall be credited to the publications fee fund of the Kansas department of agriculture.

History: L. 1985, ch. 12, § 2; L. 1988, ch. 356, § 32; L. 1994, ch. 336, § 6; L. 2004, ch. 101, § 50; L. 2009, ch. 128, § 24; L. 2010, ch. 60, § 4; July 1.

2-2470. Allowable pesticide applications by the applicator. Unless limited by K.S.A. 2-2471, and amendments thereto, or prohibited by the pesticide product label, the applicator may:

(1) Apply a pesticide at any dosage, concentration or frequency less than that specified on the label or labeling; or

(2) apply a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling, and if the secretary has determined that the use of the pesticide against other pests would not cause an unreasonable effect on the environment.

History: L. 1989, ch. 6, § 2; L. 2009, ch. 128, § 25; July 1.

2-2471. Rule and regulation authority to the secretary to limit pesticide use. Notwithstanding the provisions of K.S.A. 2-2470, and amendments thereto, whenever the secretary deems it necessary to preserve the health, safety and welfare or the natural resources of the state, the secretary is hereby authorized to promulgate rules and regulations imposing limitations on the use of any pesticide.

History: L. 1989, ch. 6, § 3; L. 2009, ch. 128, § 26; July 1.

2-2472. Pesticide management areas; development by the secretary. (a) The secretary of the Kansas department of agriculture is hereby authorized and may develop pesticide management areas after receiving notification by the administrator of the United States environmental protection agency or by the secretary of the Kansas department of health and environment, that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

(b) The secretary upon the secretary's own investigation may initiate such proceedings whenever the secretary has reason to believe that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

History: L. 1989, ch. 6, § 4; L. 2004, ch. 101, § 51; July 1.

2-2473. Same; factors to examine in area development; pesticide management area technical advisory committee; composition and duties thereof. (a) The pesticide management areas shall be developed by examination of the following factors:

- (1) Precipitation;
- (2) topography;
- (3) soil type;
- (4) depth to the watertable; and
- (5) other factors as the secretary deems relevant.

The areas shall be designated as permitted, modified or prohibited for the use of certain types of pesticides as determined by the pesticide management plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including but not limited to the application, mixing, loading, storage, disposal or transportation and guidelines for the best management practices.

(b) When considering whether to establish such pesticide management areas, the secretary shall consult with a pesticide management area technical advisory committee composed of a representative or representatives of each of the following:

- (1) Kansas department of health and environment appointed by the secretary of health and environment;
- (2) Kansas department of wildlife, parks and tourism appointed by the secretary of wildlife, parks and tourism;
- (3) Kansas state university appointed by the president of Kansas state university;
- (4) Kansas water authority appointed by the chairperson of the Kansas water authority;
- (5) conservation commission appointed by the chairperson of the state conservation commission;
- (6) Kansas geological survey appointed by the state geologist; and
- (7) other persons the secretary determines to have beneficial information to the establishment of such areas as appointed by the secretary. This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

History: L. 1989, ch. 6, § 5; July 1; L. 2012, ch. 47, sec. 3; July 1.

2-2474. Same; public hearing concerning designation; notice. Notwithstanding the provisions of K.S.A. 2-2475, before designating any pesticide management area, the secretary shall hold a public hearing at which any interested party may appear and be heard in person or by attorney. Notice of the hearing shall be given by a publication in the Kansas register and by three publications in a newspaper or newspapers of general circulation within the area in question within the 30-day period prior to the date set for the hearing. The notice shall state the proposed boundaries of the pesticide management area and a summary of the proposed pesticide management plan to be applied within the proposed pesticide management area.

History: L. 1989, ch. 6, § 6; July 1.

2-2475. Temporary pesticide management areas; secretary authorization. Where, in the opinion of the secretary, a pesticide poses an imminent threat to the public health, safety and welfare or the natural resources of this state the secretary is authorized to establish temporary pesticide management areas for a period not to exceed 90 days. The order of designation of a temporary pesticide management area shall be in full force and effect upon entry in the records of the secretary and the secretary shall take all steps reasonably necessary to disseminate the information of the order to all interested parties.

History: L. 1989, ch. 6, § 7; July 1.

2-2476. Pesticide management area; order of designation. Notwithstanding the provisions of K.S.A. 2-2475, the order of designation of a pesticide management area shall be in full force and effect 60 days from the date of publication in the Kansas register unless and until its operation shall be stayed by an appeal therefrom in accordance with the provisions of the act for judicial review and civil enforcement of agency action. The secretary upon request shall deliver a copy of such order to any

interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county which lies within such designated pesticide management area.

History: L. 1989, ch. 6, § 8; July 1.

2-2477. Same; secretary authorization to revoke, modify or expand. The secretary is authorized to revoke, modify or expand the boundaries or plan of a pesticide management area after publication and public hearings, pursuant to K.S.A. 2-2474, on the proposed change.

History: L. 1989, ch. 6, § 9; July 1.

2-2478. Same; use of pesticides in area; civil penalty; appeal procedure. (a) Following the establishment of any pesticide management area, all persons shall use pesticides consistently with the provisions of the pesticide management plan for the pesticide management area. Any person who applies pesticides in violation of a plan of an established pesticide management area may incur a civil penalty 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.

(b) No civil penalty shall be imposed pursuant to this section except upon the written order of the secretary or the secretary's duly authorized agent to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Any such person, within 20 days after notification, 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.

(c) Any 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 act for judicial review and civil enforcement of agency actions.

(d) 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.

History: L. 1989, ch. 6, § 10; L. 2001, ch. 5, § 18; July 1.

2-2479. Same; statewide education program on areas and plans. The secretary shall initiate a statewide program to educate the public on pesticide management areas and pesticide management plans. The secretary may use other state agencies as well as the Kansas cooperative extension service to disseminate this information to the public.

History: L. 1989, ch. 6, § 11; July 1.

2-2480. Uniformity of pesticide law; state has exclusive jurisdiction. (a) On and after the effective date of this act, the provisions of the Kansas pesticide law, and any rules and regulations promulgated thereunder relating to pesticide sale or use, including, but not limited to, application of pesticides, training and certification of pesticide applicators, storage of pesticides, transportation of pesticides and disposal of pesticides within the state of Kansas shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas pesticide law is hereby declared to be invalid and of no effect. Any amendment to the Kansas pesticide law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) This act is supplemental to and shall become a part of the Kansas pesticide law.

History: L. 1992, ch. 195, § 4; April 30.

2-2481. Format of required documentation. Documentation required under the provisions of the Kansas pesticide law, or any rule or regulation adopted under it, may be created and maintained in paper or electronic format, or a combination of both. Documents shall be provided upon request to the secretary or the secretary's designee in the format selected by the secretary or the secretary's designee. Any required document created or maintained in an electronic format shall be capable of being reproduced in a readable paper format.

History: L. 2018, ch. 20, § 1; July 1.

Chapter 74. State Boards, Commissions and Authorities

Article 5. Department of Agriculture

74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of powers and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended, revoked or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the

secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

History: L. 1995, ch. 236, § 9; May 4.