

**Testimony in Support of House Bill 2463
to the House Committee on Agriculture
by Kenneth Titus, Chief Counsel
Kansas Department of Agriculture
February 10, 2020**

Good afternoon Chairman Highland and members of the committee, I am Kenneth Titus and I serve as Chief Counsel at the Kansas Department of Agriculture. Thank you for the opportunity to present testimony in support of House Bill 2463.

The Kansas Department of Agriculture (KDA) is authorized to administrate and enforce the laws applicable to pesticide business licenses pursuant to K.S.A. 2-2439. Specifically, it is unlawful for any person to advertise, sell, or perform any pest control service or apply any pesticide on the property or premises of another person. An exception is made for certified private applicators, who may apply restricted use pesticides in the production of agricultural commodities in limited circumstances. The amendments contained in HB 2463 will serve to update the existing pesticide business license law requirements by requiring all licensees maintain liability insurance and by removing the outdated background check procedures currently required for each applicant that admits a felony conviction.

Requiring all licensees to maintain liability insurance will better serve the public and reduce the workload and verification requirements required by KDA staff. Currently, licensees may provide financial security in the form of a bond, insurance, letter of credit, or an escrow account. K.S.A. 2-2448 currently requires that the bond, letter of credit, and escrow account must be for a minimum of \$6,000. The current insurance minimums are \$25,000 for bodily injury and \$5,000 for property damage liability. There are also special requirements for aerial applicators. The total number of pesticide business licensees in Kansas is 1,606 and they have the following forms of financial security on file:

Type of Financial Security	# of Licensees	Percent
Insurance	1,448	90.2%
Letter of Credit	77	4.8%
Bond	24	1.5%
Escrow Account	7	0.4%
Aircraft Insurance	50	3.1%

Along with providing a more reliable means of protection against damages to the public, reducing the verification requirements of KDA employees, small bonds are becoming increasingly difficult

to secure on the open market and insurance is a more reliable predictor of financial security than a letter of credit for \$6,000. The burden on the industry would also be small, as only 108 (6.7%) licensees would be impacted and they would have until 2021 to acquire insurance.

Pursuant to K.S.A 2-2449 and 2-3310, any application for a license, registration, permit or certification under the Kansas Pesticide Law or the Kansas Chemigation Safety Law may be denied when an applicant “has not been sufficiently rehabilitated to warrant the public trust.” This places KDA staff in the uncomfortable position of attempting to determine the appropriate standard for determining the meaning of “sufficiently rehabilitated to warrant the public trust.”

KDA does not have authority to run background checks, so this process only occurs when an applicant admits to a felony conviction on their application. This also requires the applicant to submit extensive documentation of their conviction and “rehabilitation.” This requires considerable review by KDA staff. Not only does this put KDA in a difficult position, but it also makes this job field less accessible to some possible deserving candidates, simply because of the paperwork burden placed upon them. Therefore, we recommend that the denial of pesticide business licenses be based upon violations of state and federal law related to the application of pesticides and the operation of chemigation systems.

Thank you for the opportunity to present testimony on HB 2463. We encourage you to support this bill.