

As Amended by House Committee

Session of 2020

HOUSE BILL No. 2463

By Committee on Agriculture

1-22

1 AN ACT concerning agriculture; relating to pesticides; the licensure of  
2 persons applying pesticides; the permitting of persons utilizing  
3 chemigation; amending K.S.A. 2-2448, 2-2467a and 2-3310 and K.S.A.  
4 2019 Supp. 2-2440, 2-2449 and 2-2450 and repealing the existing  
5 sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2019 Supp. 2-2440 is hereby amended to read as  
9 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is  
10 unlawful for any pesticide business—~~which~~ *that* has not been issued a  
11 pesticide business license to:

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

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

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

23 (b) Application for a pesticide business license or renewal shall be  
24 made on a form obtained from the secretary and shall be accompanied by  
25 an application fee per category in which the licensee applies, and an  
26 additional fee for each uncertified individual employed by the applicant to  
27 apply pesticides. The application fee per category shall be \$140 per  
28 category in which the licensee applies, except that on and after July 1,  
29 2023, the application fee per category shall be \$112 per category in which  
30 the licensee applies. An additional fee of \$15 shall be paid for each  
31 uncertified individual employed by the applicant to apply pesticides,  
32 except that on and after July 1, 2023, an additional fee of \$10 shall be paid  
33 for each uncertified individual employed by the applicant to apply  
34 pesticides. The application fee per category and the additional fee for each  
35 uncertified employee in effect on the day preceding the effective date of  
36 this act shall continue in effect until the secretary adopts rules and

1 regulations fixing a different fee under this subsection. Any uncertified  
2 individual employed for a period of more than 10 days in a 30-day period  
3 or for five consecutive days by a licensee to apply pesticides subsequent to  
4 such application shall be reported to the secretary within 30 days of such  
5 employee's hiring and the fee shall be paid at that time. Each application  
6 shall also include the following:

7 (1) The business name of the person applying for such license or  
8 renewal;

9 (2) if the applicant is an individual, receiver, trustee, representative,  
10 agent, firm, partnership, association, corporation or other organized group  
11 of persons, whether or not incorporated, the full name of each owner of the  
12 firm or partnership or the names of the officers of the association,  
13 corporation or group;

14 (3) the principal business address of the applicant in the state and  
15 elsewhere; and

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

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

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

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

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

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

35 (e) Subject to the provisions of subsection (d), it is unlawful for any  
36 governmental agency ~~which~~ *that* has not been issued a government agency  
37 registration to apply pesticides within this state. Application for  
38 government agency registration shall be made on a form obtained from the  
39 secretary and shall be accompanied by a fee fixed by rules and regulations  
40 adopted by the secretary, except that such fee shall not exceed \$50, except  
41 that on and after July 1, 2023, such fee shall not exceed \$35. The  
42 governmental agency registration fee in effect on the day preceding the  
43 effective date of this act shall continue in effect until the secretary adopts

1 rules and regulations fixing a different fee therefor under this subsection.  
2 No fee shall be required of any township located within a county ~~which~~  
3 *that* has previously applied for and received government agency  
4 registration. Each application for registration shall contain information  
5 including, but not limited to:

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

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

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

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

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

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

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

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

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

11 ~~(2) providing one of the following:~~

12 **(1) A surety bond in an amount not less than \$6,000 per year. The**  
13 **bond shall be executed by a corporate surety and shall state the**  
14 **effective date and the expiration date. The bond shall be executed on a**  
15 **form approved by the secretary. The applicant shall be named as the**  
16 **principal in the bond. Such bond shall be to the state of Kansas and**  
17 **shall be conditioned upon compliance by the principal and by the**  
18 **principal's officers, agents, representatives and employees, with the**  
19 **provisions of this act and acts amendatory thereof and supplemental**  
20 **thereto. It shall be unlawful for any licensed person to use the words**  
21 **"bond" or "bonded" in advertising or in publicizing such person's**  
22 **operations in connection with the application of pesticides unless such**  
23 **bond is a performance bond and that fact and the amount of such**  
24 **bond are specified.**

25 **(2) A certificate of liability insurance. The certificate of liability**  
26 **insurance shall be executed by an insurance company authorized to do**  
27 **business in Kansas or by a licensed insurance agent operating under**  
28 **authority of K.S.A. 40-246b, and amendments thereto, and shall state the**  
29 **effective date and the expiration date of the policy. Such liability insurance**  
30 **shall be subject to the insurer's policy provisions filed with and approved**  
31 **by the commissioner of insurance pursuant to K.S.A. 40-216, and**  
32 **amendments thereto, except as authorized by K.S.A. 40-246b, and**  
33 **amendments thereto. The liability insurance policy shall provide:**~~(A) (1)~~  
34 **(A) Coverage for not less than \$25,000 for bodily injury liability for each**  
35 **occurrence; and**~~(B) (2)~~ **(B) coverage for not less than \$5,000 for property**  
36 **damage liability for each occurrence. In addition to the coverage specified**  
37 **above, if the applicant for a pesticide business license is an aerial**  
38 **applicator, the liability insurance policy shall provide coverage for any**  
39 **pesticide such applicant will be applying and for comprehensive chemical**  
40 **coverage. Pesticide application equipment, if required to be registered**  
41 **under K.S.A. 2-2456, and amendments thereto, shall be covered. The**  
42 **insurer shall notify the secretary, in writing, of any expiration, reduction or**  
43 **cancellation of liability insurance, furnished as a prerequisite of licensure,**

1 not later than 10 days before the expiration, reduction or cancellation takes  
2 effect. Upon expiration, reduction or cancellation of the liability insurance,  
3 the secretary shall suspend such pesticide applicator's business license  
4 until the insurance requirement is met by the licensee for the current  
5 license period. The certificate shall be executed on a form approved by the  
6 secretary.

7 ~~(3) A \$6,000 letter of credit from a Kansas financial institution, as~~  
8 ~~defined in K.S.A. 16-117, and amendments thereto. The letter of credit~~  
9 ~~shall be executed on a form approved by the secretary. The letter of credit~~  
10 ~~shall state the effective date and the expiration date and shall be valid~~  
11 ~~through the term of the applicant's business license. Upon cancellation of~~  
12 ~~the letter of credit, the secretary shall suspend such pesticide applicator's~~  
13 ~~business license until the letter of credit requirement is met by the licensee~~  
14 ~~for the current license period.~~

15 ~~(4) Maintaining a minimum balance of \$6,000 in an escrow account~~  
16 ~~in a Kansas financial institution as defined in K.S.A. 16-117, and~~  
17 ~~amendments thereto. The escrow account shall maintain the minimum~~  
18 ~~balance through the term of the applicant's business license. The secretary~~  
19 ~~shall be notified in writing by the financial institution within 10 days if the~~  
20 ~~amount in the escrow account falls below the \$6,000 minimum balance.~~  
21 ~~Upon notification, the secretary shall suspend such pesticide applicator's~~  
22 ~~business license until the escrow account minimum balance is at \$6,000.~~

23 ~~(b) Before June 1, 1994, the financial responsibility and proof of~~  
24 ~~financial responsibility required pursuant to this section prior to March 1,~~  
25 ~~1994, shall continue to apply to any pesticide business holding a valid~~  
26 ~~pesticide business license on February 28, 1994, and no different or~~  
27 ~~additional financial responsibility or proof of financial responsibility shall~~  
28 ~~be required of such business. On or before June 1, 1994, each pesticide~~  
29 ~~business licensed before March 1, 1994, shall furnish to the secretary proof~~  
30 ~~of financial responsibility conforming to the requirements of this section~~  
31 ~~as amended by this act.~~

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

37 *Prior to January 1, 2021, any existing proof of financial responsibility*  
38 *that has been properly filed with the secretary and remains valid shall*  
39 *fulfill the proof of financial responsibility requirements of the Kansas*  
40 *pesticide law, but, on and after January 1, 2021, pesticide business*  
41 *licensees and applicants shall have a **surety bond or certificate of***  
42 *liability insurance properly filed with the secretary in accordance with the*  
43 *provisions of this section to fulfill the proof of financial responsibility*

1 *requirements of the Kansas pesticide law.*

2 Sec. 3. K.S.A. 2019 Supp. 2-2449 is hereby amended to read as  
3 follows: 2-2449. The secretary may deny, suspend, revoke or modify the  
4 provisions of any license, registration, permit or certificate issued under  
5 this act, if the secretary finds, after notice and opportunity for a hearing are  
6 given in accordance with the provisions of the Kansas administrative  
7 procedure act, that the applicant, licensee, registrant, permit holder or  
8 certificate holder has:

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

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

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

21 Sec. 4. K.S.A. 2019 Supp. 2-2450 is hereby amended to read as  
22 follows: 2-2450. (a) If the ~~surety bond~~, **surety bond** or certificate of  
23 liability insurance, ~~letter of credit or proof of an escrow account~~ previously  
24 furnished by the licensee expires or is canceled or terminated, the secretary  
25 shall suspend without a hearing the pesticide business license until ~~an~~  
26 ~~acceptable substitute surety bond, letter of credit, proof of an escrow~~  
27 ~~account or a~~ **substitute surety bond** or certificate establishing acceptable  
28 replacement of liability insurance is supplied.

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

35 Sec. 5. K.S.A. 2-2467a is hereby amended to read as follows: 2-  
36 2467a. The secretary is hereby authorized to promulgate and adopt rules  
37 and regulations for the administration of this act and concerning the  
38 following matters ~~which~~ *that* include, but are not limited to:

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

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

43 (c) the designation of categories for the certification of applicators as

1 provided in K.S.A. 2-2444a, and amendments thereto;

2 (d) the designation of training requirements for those persons  
3 applying for a pest control technician's registration as provided in K.S.A.  
4 2-2440b, and amendments thereto;

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

8 (f) the storing and discarding of pesticides, pesticide materials,  
9 pesticide rinsates and pesticide containers;

10 (g) proper health and safety precautions;

11 ~~(h) proof of financial responsibility including acceptable surety~~  
12 ~~bond, certificate~~ **acceptable surety bonds and certificates** of liability  
13 insurance coverage, letter of credit or proof of an escrow account;

14 (i) furnishing of reports and information necessary for the secretary to  
15 carry out the provisions of this act; and

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

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

21 Sec. 6. K.S.A. 2-3310 is hereby amended to read as follows: 2-3310.  
22 The secretary, after notice and opportunity for a hearing in accordance  
23 with the provisions of the Kansas administrative procedure act, may deny,  
24 suspend, revoke or modify the provisions of any permit issued under this  
25 act, if the secretary finds that the applicant, registrant or permit holder has:

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

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

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

35 Sec. 7. K.S.A. 2-2448, 2-2467a and 2-3310 and K.S.A. 2019 Supp. 2-  
36 2440, 2-2449 and 2-2450 are hereby repealed.

37 Sec. 8. This act shall take effect and be in force from and after its  
38 publication in the statute book.