

SHORT TITLE: Agriculture; updating statutory reference.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 101

By: Muegge

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 1991, Section 3-81, which relates to definitions; and updating statutory reference.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 1991, Section 3-81, is amended to read as follows:

Section 3-81. The following terms, as used herein, shall have the meanings hereafter indicated and shall be so construed:

1. "Board" means the Board of Agriculture.

2. "Pesticide" means any substance or mixture of substances intended for defoliating or desiccating plants, preventing fruitdrop, inhibiting sprouting, or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals which the Board shall declare to be a pest.

3. "Insecticide" means any pesticide intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

4. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs,

flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

5. "Herbicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any weed, or for defoliating plants, preventing fruitdrop, and inhibiting sprouting.

6. "Weed" means any plant or plant part which grows where not wanted.

7. "Fungicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any fungi or bacteria.

8. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

9. "Defoliant" means any pesticide intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

10. "Desiccant" means any pesticide intended for artificially accelerating the drying of plant tissues.

11. "Commercial application" means the advertising of services, recommendation for use, the preparation for application and physical act of application of a pesticide or employment of a device for hire or compensation.

12. "Commercial applicator" means any person who engages in commercial application of pesticides or commercial employment of devices. Any farmer while working for his neighbor in agricultural production on neighboring land, and not advertising, nor holding himself out to be in the business of applying restricted use pesticides, shall not be classified as a commercial applicator.

13. "Person" means any individual, partnership, firm, corporation, company, association, organized group of persons whether incorporated or not or other legal entity.

14. "Aircraft" means any contrivance now known or hereafter invented that is used or designed for navigation of or flight in the air over land or water, and that is designed for or adaptable for use in applying pesticides, as sprays, dusts, or in other forms.

15. "Ground equipment" means any machine, equipment, or device other than aircraft that is designed for use, adaptable for use, or that is used, on land or water, in applying pesticides, as sprays, dusts, aerosols, fogs, or in other forms.

16. "Private applicator" means any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

17. "Noncommercial applicator" means any person, other than a commercial or private applicator, who uses or supervises the use of a restricted use pesticide under the supervision of a person who owns or manages the property, and who has been certified to be competent by the Board with respect to the use and handling of restricted pesticides in the same manner as required for a commercial applicator. A noncommercial applicator is subject to all provisions except the requirements of this act pertaining to financial responsibility. Noncommercial applicator also means a government employee in the discharge of his official duties.

18. "Certification standards" means the standards established by the Board with respect to pesticides that a person must meet to assure competency as a certified applicator. Certification standards shall be in the form of a written and/or practical examination and conducted at such locations and times as determined

by the Board. The Board may also establish prerequisite requirements in any category. Recertification procedures will be established by the Board and may be written and/or other methods satisfactory to the Board.

19. "Certified applicator" means a person who has met the certification standards.

20. "Business location" means any place, site, facility maintained by a commercial or noncommercial applicator where records such as financial statements, payroll, insurance, and personnel documents are maintained, pesticides are stored, and from which customers are served, provided that a location serving strictly as a telephone answering service shall not be considered as a business location.

21. "Use" is defined herein as transportation, storage, mixing, application, safety, waste and container disposal and any other specific instructions contained on the label and associated labeling.

22. "License" means a written document issued to a person by the Board which shows that the person has met all of the licensing requirements established by this act, Section 1-1 et seq. of this title, and is authorized to apply pesticides as a commercial, noncommercial, or private applicator in accordance with the type license issued.

23. "Certificate" means a written document issued to an individual by the Board which indicates that the individual has met the certification standards established by this act for the category of pesticide application shown on the certificate. A certificate does not allow a person to do work as a commercial, noncommercial, or private applicator unless he is employed by a company or has a valid license issued by the Board.

24. "Pest" means any organism harmful to man including insects, mites, nematodes, weeds, and pathogenic organisms. The latter

include viruses, mycoplasma, bacteria, rickettsia, and fungi which the Board declares to be a pest.

25. "Contract" means a binding agreement between two or more persons or parties that spells out in writing the terms and conditions of such agreement and includes but not be limited to warranties or guarantees for pesticide application and for structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed.

26. "Minimum standards" means the irreducible minimum measures prescribed by the Board deemed necessary to bring worthwhile pesticide application services to the public.

27. "Wood infestation report" means any document issued in conjunction with a property transaction which must, as a minimum, contain statements or certifications about the property as to the presence or absence of termites and any other wood destroying organism, and the presence or absence of damage therefrom, other than a bid or proposal for treatment.

28. "Device" means any instrument or contrivance subject to the United States Environmental Protection Agency regulation intended for trapping, destroying, repelling, or mitigating insects or rodents, or mitigating fungi, bacteria or weeds, or such other pests as may be designated by the Board, but not including equipment used for the application of pesticides when sold separately therefrom.

29. "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any, of the pesticide or device.

30. "Labeling" means all labels and other written, printed, or graphic matter:

- a. upon the pesticide or device or any of its containers or wrappers;
- b. accompanying the pesticide or device at any time; or
- c. to which reference is made on the label or in literature accompanying the pesticide or device except when accurate, nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, or United States Department of the Interior, the United States Public Health Service, State Experiment Stations, State Agricultural Colleges, or other federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

31. "Rodenticide" means any pesticide intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Board shall declare to be a pest.

32. "Restricted use pesticide" means any pesticide classified for restricted use by the United States Environmental Protection Agency, either by regulation or through the registration process or by the Board pursuant to the provisions of the Oklahoma Pesticide Law.

33. "Direct supervision" means that the certified applicator is responsible for assuring that those working subject to his direct supervision are qualified to handle pesticides and are instructed in the application of the specific pesticides used in each particular application conducted subject to his supervision. Certified applicator shall be in the State of Oklahoma and be accessible to the noncertified applicator at all times during the application by telephone or radio.

34. "Service technician" means a person employed by a licensed commercial or noncommercial applicator who makes the actual

application of pesticides or employs a device, provided that such person is not the certified applicator. A service technician or certified applicator shall be present at each job performed.

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