

ENROLLED HOUSE
BILL NO. 2402

By: Covey of the House

and

Price of the Senate

An Act relating to agriculture; amending 2 O.S. 2001, Sections 3-82, as last amended by Section 1, Chapter 410, O.S.L. 2003, 3-84 and 3-86 (2 O.S. Supp. 2003, Section 3-82), which relate to pesticide licensing; modifying certain fees; restricting sale of license; defining terms; providing for permits for pesticide producing establishments; providing for disclosure of certain records; requiring maintenance of certain records; deleting hearing for certain spraying; authorizing the Board to refuse reissuance of certain licenses; amending 2 O.S. 2001, Section 8-26, which relates to inspection of seeds; modifying fees; amending 2 O.S. 2001, Section 8-41.4, which relates to commercial feed; deleting maximum license fee; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 3-82, as last amended by Section 1, Chapter 410, O.S.L. 2003 (2 O.S. Supp. 2003, Section 3-82), is amended to read as follows:

Section 3-82. A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged.

2. A license may be issued by the Board in any category of pesticide application if the applicant qualifies and the applicant is limited to the category of pesticide application named on the license. The Board may establish categories of pesticide application as necessary. Licenses shall be issued upon application to the Board on a form prescribed by the Board. The application shall contain information regarding the applicant's qualifications, proposed operations, and other information as specified by the Board.

3. ~~A.~~ a. An aerial license shall not be issued or be valid unless the applicant files with the Board a copy of a valid document issued by the Federal Aviation Administration showing that the person is qualified to operate or supervise the operation of an aircraft

conducting agricultural operations. Applicants for an aerial license and pilots working under a license may be subject to a complete and thorough background examination.

- ~~B.~~ b. The Board shall promulgate rules regarding aerial applicators and applications consistent with federal law and shall solicit the assistance of the Federal Aviation Agency in the enforcement of this subsection.

4. Each business location shall require a separate license and separate certified applicator except that a certified applicator for a noncommercial business location may also serve as the certified applicator for one commercial business location.

5. A license shall not be issued for the category of pesticide application of any applicant or representative who has a temporary certification.

B. CERTIFICATION REQUIRED - 1. A license shall be issued only after satisfactory completion of the certification standards by the person who shall be the certified applicator under the license. Temporary certified applicators do not qualify as the certified applicator for a license, nor may they act as a certified applicator. The Board shall deny the application for certification, recertification, issuance, or renewal of a certificate or license for a failure to show proper qualification under the rules or for violations of any provisions of this subarticle. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked by the Board or until recertification is required for the category, and may be renewed after successful completion of recertification requirements. The Board may require certified applicators to be recertified once in a five-year period.

2. A certified service technician identification shall be issued upon application and completion of certification standards determined by the Board. Temporary certified applicators may qualify as a certified service technician. No person shall act, do business as, or advertise as a service technician unless the person has met all the qualifications and standards as required by the Board. The service technicians' identification shall be issued in the name of the licensed entity. The licensee shall ensure that the service technician identification is returned to the Board upon termination of the employee. A service technician identification shall be valid for a period of five (5) years unless suspended, canceled, or revoked by the Board, until recertification is required by the Board, or until the service technician leaves the employ of the licensed entity.

3. Each license, except for private applicators, shall expire on the 31st day of December following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination, if a properly completed application is filed with the Board not later than the 1st day of January of each year. If application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. After the 1st day of February, in addition to the penalty, a reexamination shall be required.

All private applicator licenses are in effect for five (5) years and may be renewed by application after completion of a continuing education program or written exam approved by the Board.

C. The following fees shall be paid to the Board:

1. A fee of ~~Fifty Dollars (\$50.00)~~ One Hundred Dollars (\$100.00) for each category of pesticide application shall be paid to the Board for the issuance or renewal of a commercial applicator business license, ~~not~~. Not more than Two Hundred Fifty Dollars (\$250.00) Five Hundred Dollars (\$500.00) total category fees shall be charged annually to any business location of an applicator;

2. A fee of ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) shall be paid to the Board for each written examination conducted by the Board;

3. A fee of ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) shall be paid to the Board for each practical examination conducted by the Board;

4. A fee of ~~Five Dollars (\$5.00)~~ Twenty Dollars (\$20.00) shall be paid to the Board for the issuance or renewal of a private applicator's license;

5. A fee of ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) shall be paid to the Board for the issuance or renewal of a noncommercial business license. Not more than Two Hundred Fifty Dollars (\$250.00) total category fees shall be charged annually to any noncommercial business location of an applicator;

6. A fee of ~~Ten Dollars (\$10.00)~~ Forty Dollars (\$40.00) shall be paid to the Board for the issuance or renewal of service technician identification;

7. A fee of ~~Five Dollars (\$5.00)~~ Ten Dollars (\$10.00) shall be paid to the Board for the issuance of duplicate licenses or certificates or transfer of a service technician identification;

8. No fees shall be charged to governmental agencies or their employees in the discharge of their official duties;

9. A fee of ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) shall be paid to the Board for each recertification procedure; and

10. A fee of ~~Twenty Dollars (\$20.00)~~ One Hundred Dollars (\$100.00) shall be paid to the Board for each reciprocal certification procedure for applicator certifications.

D. All fees shall be deposited in the State Department of Agriculture Revolving Fund.

E. Fees shall be paid to the Board prior to the processing of any application.

F. Failure to pay any fee identified with licenses, permits, pesticide registrations, or certification shall require the Board to deny the application.

G. INSURANCE REQUIRED - 1. The Board shall not issue a commercial applicator's license until the applicant has furnished evidence of an insurance policy or certificate by an insurer or broker authorized to do business in this state insuring the commercial applicator and any agents against liability resulting from the operations of the commercial applicator. The insurance shall not be applied to damage or injury to agricultural crops, plants, or land being worked upon by the commercial applicator.

2. The amount of liability shall not be less than that set by the Board for each property damage arising out of actual use of any pesticide. The liability shall be maintained at not less than that sum at all times during the licensing period. The Board shall be notified fifteen (15) days prior to any reduction in liability.

3. If the furnished liability becomes unsatisfactory, the applicant shall immediately execute new liability upon notice from the Board. If new liability is not immediately obtained, the Board shall, upon notice, cancel the license. It shall be unlawful for the person to engage in the business of applying pesticides until the liability is brought into compliance and the license reinstated.

H. DAMAGES - No action for alleged damages to growing annual crops or plants may be brought or maintained unless the person claiming the damages has filed with the Board a written statement of alleged damages on a form prescribed by the Board within ninety (90) days of the date that the alleged damages occurred, or prior to the time that twenty-five percent (25%) of a damaged crop has been harvested.

I. PERMIT REQUIRED - 1. It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a restricted use pesticide dealer's permit issued by the Board~~+~~.

2. A permit may be issued by the Board in any category of pesticide sales if the applicant qualifies under the provisions of this subarticle and the applicant is limited to the category of pesticide sales named on the permit. The Board may establish categories of pesticide sales as necessary~~+~~.

3. The permit shall be issued only upon application on a form prescribed by the Board and the application shall contain information regarding the applicant's proposed operation and other information as specified by the Board~~+~~.

4. Each business location engaged in the sale or distribution of restricted use pesticides shall require a separate permit~~+~~.

5. The annual permit fee for a restricted use pesticide dealer permit shall be ~~Twenty Dollars (\$20.00)~~ Fifty Dollars (\$50.00) for each location~~+~~and.

6. The Board may require a certified applicator to be present at any location where designated restricted use pesticide sales occur.

J. PESTICIDE REGISTRATION REQUIRED - 1. Every pesticide or device distributed, sold, or offered for sale within this state or

delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Board.

2. The registrant shall file with the Board a statement including, but not limited to:

- a. the name and address of the registrant and the name and address of the person whose name shall appear on the label, if other than the registrant,
- b. the name of the pesticide or device,
- c. a complete copy of the labeling accompanying the pesticide or device and a statement of all claims to be made for it, and directions for use, and
- d. if requested by the Board, a full description of the tests made and the results upon which the claims are based. In renewing a registration, a statement shall be required only with respect to information which is different from the information furnished when the pesticide or device was last registered.

3. Each registrant shall pay to the Board an annual registration fee of One Hundred Sixty Dollars (\$160.00) for each pesticide or device label registered. These fees shall be used by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry for purposes of administering pesticide management programs. A portion of these fees, in the amount of One Hundred Thousand Dollars (\$100,000.00) annually, shall be dedicated for conducting programs for unwanted pesticide disposal. This amount shall be deposited into the State Department of Agriculture Revolving Fund and shall be dedicated for this use only.

4. The Board may require the submission of the complete formula of any pesticide. Trade secrets and formulations submitted by the registrant may be kept confidential. If it appears to the Board that the composition of the pesticide is adequate to warrant the proposed claims and if the pesticide, its labeling, and other material required to be submitted comply with the requirements of this subarticle, then the pesticide shall be registered.

5. If it does not appear to the Board that the pesticide or device is adequate to warrant the proposed claims for it or if the pesticide or device, its labeling, and other material required to be submitted do not comply with the provisions of this subarticle, it shall notify the applicant of the deficiencies in the pesticide, device, labeling, or other material required and afford the applicant an opportunity to make the necessary corrections. If the applicant claims, in writing, that the corrections are not necessary and requests in writing a hearing regarding the registration of the pesticide or device, the Board shall provide an opportunity for a hearing before refusing to issue the registration. In order to protect the public, the Board may at any time cancel the registration of a product or device. In no event, shall registration of a pesticide or device be considered as a defense or excuse for the commission of any offense prohibited under this subarticle.

6. The Board may require that pesticides be distinctively colored or discolored to protect the public health.

7. Registration shall not be required in the case of a pesticide shipped from one plant or place within this state to another plant or place within this state that is operated by the same person.

K. CATEGORIES OF LICENSES AND PERMITS - The Board may establish any category of license for pesticide application or any category of permit for pesticide sales.

L. PERMIT AND PESTICIDE REGISTRATION EXPIRATION - 1. All permits for pesticide sales shall be issued for a period of one (1) year and the permits shall be renewed annually and shall expire on a date determined by the Board. A permit may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

2. All pesticide registrations shall be issued for a period of one (1) year. The registration shall be renewed annually and shall expire on a date to be determined by the Board. Pesticide registrations may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the pesticide registration.

M. PESTICIDE PRODUCING ESTABLISHMENTS - 1. Definitions as used in this subarticle:

- a. "establishment" means any site where a pesticide product, active ingredient or device is produced within the state,
- b. "produce" means to manufacture, prepare, propagate, compound or process any pesticide or to package, repackage, label, relabel or otherwise change the container of any pesticide or device, and
- c. "producer" means any person who produces, manufactures, prepares, compounds, propagates or processes any active ingredient, pesticide, or device as used in producing a pesticide.

2. It shall be unlawful for any person to produce within this state any pesticide, active ingredient or device without first obtaining a pesticide producer establishment permit issued by the Board.

3. The permit shall be issued only upon application on a form prescribed by the Board. The application shall contain information regarding the proposed operation of the applicant and other information as specified by the Board. If at any time there is a change of the information provided in or on the application for a

pesticide producer establishment permit, the producer must notify the Board in writing within thirty (30) calendar days of the change.

4. The producer shall file a statement with the Board including but not limited to:

- a. the name and address of the company,
- b. the name and address of the establishment as well as the physical location, if different than the mailing address,
- c. the name of any pesticide, active ingredient, or device, and
- d. the name and address and other pertinent contact information for the responsible party.

5. All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually. All permits shall expire on June 30 each year and may be renewed without penalty if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

6. Each pesticide producer establishment location engaged in the production of pesticides, active ingredients or devices shall require a separate permit.

7. The annual permit fee for a pesticide producer establishment shall be One Hundred Dollars (\$100.00) for each location.

8. If requested by the Board, a complete copy of all labeling, Material Safety Data Sheets, technical information associated with the pesticide, active ingredient, or device and a statement of all claims to be made as well as directions and use must be submitted to the Board.

9. In order to determine compliance with state and federal laws, the Board may request a full disclosure of inventory records, sales and distribution records, and any other information deemed necessary by the Board.

10. Every producer shall keep accurate records pertaining to pesticide, active ingredient, or device production and distribution as required by the Board. The records of the producer shall be kept intact at the principal producing location in this state for at least two (2) years after the date of production and distribution and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the producer. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 3-84, is amended to read as follows:

~~Section 3-84. A. Upon receipt of a petition bearing the signatures of not less than twenty-five (25) actual occupants of the agricultural lands of a county, the State Board of Agriculture or an authorized agent thereof shall hold a public hearing in the county to determine whether dates should be established after which no hormone-type spray may be applied by commercial applicators or whether established dates restricting applications of hormone-type herbicide by commercial applicators should be removed. Notice of the hearing shall be published in one issue of a daily, weekly, or biweekly newspaper having general circulation in the county. After the hearing, the Board shall have the authority to establish dates after which no hormone-type pesticide may be sprayed in the county, or any designated part, for a period specified by the Board or to remove the restrictions previously established. The Board shall not be required to hold more than one hearing each calendar year concerning any county or part.~~

~~B.~~ The Board shall have the authority to declare any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances as a pest. The Board shall have the authority to classify pesticide uses as being general, restricted, or both, to determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of this subarticle.

~~C.~~ B. The Board shall promulgate appropriate rules for carrying out the provisions of this subarticle, including, but not limited to, rules providing for the collection and examination of any samples necessary to evaluate the quality, quantity, or effectiveness of pesticides or devices.

~~D.~~ C. There shall be uniformity between the requirements of Oklahoma, the several states, and the Federal Government relating to the coloring or discoloring of pesticides. The Board may promulgate rules applicable to and in conformity with the primary standards established by this subarticle, as have been or may be prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 3-86, is amended to read as follows:

Section 3-86. A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue or reissue by the Board after a notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

1. A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which the person entered;

2. A person has used methods or pesticides not suitable or safe for the purpose for which they have been employed, or has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board;

3. Failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information required by the Board, or for making any false statement or representation in the person's application for issuance or renewal of a permit;

4. Any violation of state law or rules or standards prescribed by the Board;

5. The issuance of an inaccurate, misleading, or fraudulent wood infestation report;

6. Failure or refusal to keep and maintain complete and accurate records as specified in this subarticle;

7. Advertising or offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held;

8. Failure or refusal to pay by the specified date any fees, fines, or penalties authorized under this subarticle;

9. Failure to explain in writing in a contract signed by the property owner the ways that a pesticide application fails to comply with any minimum requirements or standards authorized by this article;

10. Failure to perform work according to minimum standards authorized by this subarticle except as agreed by all parties in writing in the contract;

11. Falsely stating that a person is employed by or represents another person;

12. Falsely stating that a person or methods are recommended by any branch of government or that any specific work shall be inspected by any branch of government;

13. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged;

14. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised;

15. Any person to act or operate as a private applicator unless the person has obtained a valid private applicator license issued by the Board;

16. Any person convicted in any court of a violation of this subarticle, pesticide laws of any other state, or the Federal Insecticide Fungicide and Rodenticide Act;

17. Failure to correct substandard work within twenty (20) calendar days of written notification unless an extension has been granted in writing by the Board;

18. Failure to comply with the Worker Protection Standard as defined in the Code of Federal Regulations 40 CFR 170;

19. Failure to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board; or

20. Any other proper cause.

B. Any person, holder or nonholder of a valid license violating any of the provisions of this subarticle shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

C. It shall be unlawful for any person, whether or not a person holds a permit as a manufacturer, registrant, or distributor, to distribute, sell, or offer for sale within this state, deliver for transportation or transport in intrastate or interstate commerce, or to violate any part of this subarticle or rules promulgated by the Board. Any pesticide registration, permit, certificate, or identification issued may be suspended, canceled, revoked, or refused reissue by the Board after a notice and opportunity to be heard has been given to the holder of the registration, permit, certificate, or identification. Notice shall be given to the holder of the registration, permit, certificate, or identification by registered or certified mail at least ten (10) days prior to the date of hearing. The suspension, cancellation, revocation, or refusal to reissue any registration, permit, certificate or identification may be made if the Board finds that:

1. A pesticide or device which has not been registered pursuant to the provisions of this subarticle, or any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition differs from its composition as represented in connection with its registration. At the discretion of the Board, a change in the labeling or formula may be made within a registration period without requiring reregistration of the product;

2. A pesticide unless it is in the registrant's or the manufacturer's unbroken original container, does not have a clear and readable label affixed to the original container and to the outside container or wrapper of the retail package, the following information:

- a. the name and address of the manufacturer, registrant, or person for whom manufactured,
- b. the name, brand, or trademark under which the article is sold, and
- c. the net weights or measures of the content subject to reasonable variations as the Board shall permit;

3. In addition to any other requirement any pesticide containing a substance in quantities highly toxic to humans, that does not bear a label containing:

- a. the skull and crossbones,
 - b. the word "DANGER" prominently in red, on a background of distinctly contrasting color, and
 - c. a statement of an antidote for the pesticide;
4. An adulterated or misbranded pesticide or device;
 5. That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling;
 6. That any person has sold or offered for sale any pesticide or device which has been canceled, suspended, or placed under stop sale except when the Board directs the sale of unused quantities of pesticides whose registrations have been canceled or suspended;
 7. A pesticide dealer has sold, offered for sale, or distributed within this state any pesticide without first obtaining a valid pesticide dealer's permit in the appropriate category issued by the Board;
 8. A pesticide dealer has failed or refused to keep accurate and complete records, as required by the Board, for a period of at least two (2) years at each business location;
 9. A pesticide dealer has failed or refused to provide true and complete information to the Board, upon request, regarding pesticide sales, or other information required by the Board;
 10. A person has made any false statement or representation in the person's application for issuance or renewal of a permit;
 11. A person has failed or refused to pay by the specified date any fees, fines, or penalties authorized under the Oklahoma Agricultural Code;
 12. A person has failed to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board;
 13. A person has detached, altered, defaced, or destroyed, in whole or in part, any label or labeling provided for in this subarticle or in rules promulgated by the Board, and added any substance to or taken any substance from a pesticide in a manner that may defeat any of the purposes of this subarticle;
 14. A person has used any information concerning formulas for products acquired by authority of this subarticle for personal advantage or revealed such information to another, other than to the Board or proper officials or employees of the state, to the courts of this state in response to a subpoena, physicians, or in emergencies to pharmacists and other qualified person, for use in the preparation of antidotes;
 15. A person has violated the state law or rules promulgated by the Board pursuant thereto;

16. Any person has been convicted in any court of a violation of this act, pesticide laws of any other state, or Federal Insecticide Fungicide and Rodenticide Act; or

17. A person determined by the Board to have violated any provision of this subarticle or rules promulgated by the Board.

D. If after notice and an opportunity for hearing in accordance with the Administrative Procedures Act, the Board finds any person to be in violation of any of the provisions of this subarticle or rules promulgated by the Board, the Board has the authority to assess an administrative penalty of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for each violation. It shall also be unlawful and a misdemeanor for any person, whether or not a commercial or noncommercial license holder, to use a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained by the Board.

E. Except as provided for by law, any person, holder or non-holder of a valid license, registration, permit, certificate, or other identification issued by the Board violating any of the provisions of this subarticle shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

SECTION 4. AMENDATORY 2 O.S. 2001, Section 8-26, is amended to read as follows:

Section 8-26. The State Board of Agriculture shall have authority:

1. To sample, test, make analysis of, and inspect any agricultural seed or vegetable seed transported, sold, offered or exposed for sale within this state for planting purposes, at any time and place and to any extent necessary to determine whether the agricultural seed or vegetable seed are in compliance with the provisions of this subarticle and rules promulgated thereto;

2. To issue and enforce a written or printed "stop-sale" order to the person or vendor of any agricultural seed or vegetable seed which is in violation of any of the provisions of this subarticle or rules promulgated thereto; provided, that no "stop-sale" order shall be issued or attached to any seed without first giving the vendor an opportunity to comply with the provisions of this subarticle or to withdraw the seed from sale;

3. To furnish adequate facilities for seed testing and to employ qualified persons for making the tests;

4. To publish or cause to be published the results of the examination, analysis, and test of any agricultural or vegetable seed sampled in accordance with the provisions of this subarticle, together with any other information that the Board may deem advisable;

5. To cooperate with the United States Department of Agriculture in the enforcement of the Federal Seed Act where mutual understanding is reached by written cooperative agreement;

6. To issue a license to any person upon payment of ~~Five Dollars (\$5.00)~~ Twenty-five Dollars (\$25.00) for each license of a retail seed dealer's license and ~~Twenty-five Dollars (\$25.00)~~ for each ~~wholesale seed dealer's license~~ dealer or ~~Thirty Dollars (\$30.00)~~ One Hundred Dollars (\$100.00) for each license of a retail-wholesale seed dealer's license dealer to be applied for by each seed dealer upon forms furnished for that purpose. Out-of-state wholesale and retail seed dealers who sell or ship agricultural or vegetable seed into this state shall obtain a license in the same manner. A separate license shall be required for each place of business. Each license shall expire on a date to be determined by the Board. Any license issued under the provisions of this subarticle may be revoked by the Board upon satisfactory proof that the licensee has violated any of the provisions of this subarticle or any of the rules;

7. To provide that any person in this state shall have the privilege of submitting seed samples for test, subject to the charges made for samples submitted as prescribed in rules promulgated by the Board;

8. To provide that any agricultural or vegetable seeds sold, distributed, offered for sale, or exposed for sale in this state, the person or vendor responsible for labeling and distributing the seed shall pay an inspection fee of not to exceed eight cents (\$0.08) per hundred-pound weight. Every person responsible for labeling and distributing seed to a retail seed licensee in Oklahoma, or each retail seed licensee who processes and sells seed to the consumer on which the inspection fee has not been paid, shall file not later than the last day of January and July a semiannual affidavit, setting forth the number of pounds of seed sold for the preceding six (6) calendar months; and upon filing this statement shall pay the inspection fee required. Each person labeling and distributing seed shall keep records required by the Board to indicate accurately the number of pounds of seed sold;

9. To examine records and to verify the statement of the number of pounds of seed sold and the inspection fee reported. The form of the statement for reporting and paying the seed inspection fees on a semiannual basis shall be prescribed in rules of the Board. Failure to make an accurate statement of the number of pounds of seed sold and payment of the inspection fee shall be a misdemeanor, and constitute sufficient cause for the revocation of the person's Oklahoma Seed License and to take any other appropriate action provided under the law. An inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater, shall be assessed if the semiannual statement is not submitted when due; and

10. To collect all fees and other money as provided in this subarticle and deposit the monies in the State Department of Agriculture Revolving Fund.

SECTION 5. AMENDATORY 2 O.S. 2001, Section 8-41.4, is amended to read as follows:

Section 8-41.4 A. 1. Valid licenses are required by all persons whose name appears on the label or invoice as the guarantor manufacturing or distributing of a commercial feed product in this state. The license application must list each manufacturing and distribution facility which is or will be engaged in distributing any feed sold, offered for sale, or distributed by the applicant. No license is required of a person retailing or wholesaling commercial feed labeled and guaranteed by another manufacturer. Any out-of-state person who has no distribution facility within this state shall obtain a license for the entity's principal out-of-state office if the out-of-state person or other entity sells, offers or exposes for sale, or distributes any commercial feed in this state.

2. Application shall be made on a form furnished by the State Board of Agriculture.

3. The Board may establish an annual fee for licensing distributors pursuant to the provisions of the Oklahoma Commercial Feed Law. ~~The maximum license fee shall not exceed Twenty Dollars (\$20.00), but in no case shall the fee exceed the reasonable costs of review and inspection services rendered by the Department in connection with implementing the provisions of the Oklahoma Commercial Feed Law.~~ The Board shall follow the procedures required by the Administrative Procedures Act for promulgation of rules in establishing the licensing fees.

4. Licenses shall be renewed on a date to be determined by the Board. Commercial feed license renewal applications received thirty (30) days or more after the renewal date shall be subject to a late filing fee of Fifty Dollars (\$50.00).

B. Any license may be suspended, canceled, revoked, or refused reissue by the Board after notice and opportunity for a hearing has been given to the holder of the license in accordance with the Administrative Procedures Act. Notice shall be given to the holder of the license by registered or certified mail at least twenty (20) days prior to the date of the hearing. The suspension, cancellation, revocation, refusal to issue, or reissue may be made if the Board finds any violation of the Oklahoma Commercial Feed Law or of rules or standards prescribed by the Board.

C. When the Board has reasonable cause to believe a violation of the law may exist, copies of labels and labeling of commercial feed being distributed may be requested in order to determine compliance with the provisions of the Oklahoma Commercial Feed Law, Section 8-41.1 et seq. of this title.

SECTION 6. This act shall become effective July 1, 2004.

Passed the House of Representatives the 2nd day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 8th day of April, 2004.

Presiding Officer of the Senate