

1 ENGROSSED SENATE  
2 BILL NO. 199

By: Boggs of the Senate

3 and

4 Pfeiffer of the House  
5

6 An Act relating to entomology and plant industry;  
7 amending 2 O.S. 2011, Sections 3-81, as amended by  
8 Section 1, Chapter 280, O.S.L. 2014, and 3-82, as  
9 amended by Section 1, Chapter 239, O.S.L. 2017 (2  
10 O.S. Supp. 2017, Sections 3-81 and 3-82), which  
11 relate to the Combined Pesticide Law; removing  
12 definition; modifying expiration dates; clarifying  
13 statutory language; and providing an effective date.

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

15 SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, as  
16 amended by Section 1, Chapter 280, O.S.L. 2014 (2 O.S. Supp. 2017,  
17 Section 3-81), is amended to read as follows:

18 Section 3-81. As used in the Combined Pesticide Law:

19 1. "Aircraft" means any contrivance used or designed for  
20 navigation of or flight in the air over land or water and is  
21 designed for or adaptable for use in applying pesticides as sprays,  
22 dusts, or other forms;

23 2. "Active ingredient" means an ingredient, which defoliates  
24 plants, prevents fruit drop, inhibits sprouting, or destroys,  
repels, or mitigates insects, fungi, bacteria, rodents, weeds, or  
other pests;

1        3. "Adulterated" means and includes any pesticide if the  
2 pesticide strength or purity falls below the professed standard of  
3 quality as expressed on labeling or under which it is sold, or if  
4 any substance has been substituted wholly or in part for the  
5 components of the pesticide, or if any valuable constituent of the  
6 components of the pesticide has been wholly or in part abstracted;

7        4. "Antidote" means the most practical immediate treatment in  
8 case of poisoning and includes but is not limited to first aid  
9 treatment;

10       5. "Business location" means any place, site, or facility  
11 maintained by a commercial or noncommercial applicator where  
12 records, including but not limited to, financial statements,  
13 payroll, insurance, and personnel documents are maintained,  
14 pesticides are stored, or customers are served. A location serving  
15 strictly as a telephone answering service shall not be considered a  
16 business location;

17       6. "Certificate" means a written document issued to an  
18 individual by the State Board of Agriculture which indicates that  
19 the individual has met the certification standards established by  
20 the Combined Pesticide Law for the category of pesticide application  
21 shown on the certificate. A certificate does not allow a person to  
22 do work as a commercial, noncommercial, service technician, or  
23 private applicator unless employed by a licensed entity or has a  
24 valid license issued by the Board;

1        7. "Certification standards" means the standards that a person  
2 shall meet to become a certified applicator;

3        8. "Certified applicator" means a person who has met the  
4 certification standards;

5        9. "Commercial application" means the advertising of services,  
6 recommendation for use, the preparation for application, or the  
7 physical act of applying a pesticide or employment of a device for  
8 hire or compensation;

9        10. "Commercial applicator" means any person engaging in the  
10 commercial application of pesticides or commercial employment of  
11 devices. Any farmer while working for a neighbor in agricultural  
12 production, not advertising, and not held out to be in the business  
13 of applying restricted-use pesticides, shall not be classified by  
14 the Board as a commercial applicator;

15        11. "Contract" means a binding, written agreement between two  
16 or more persons spelling out terms and conditions and includes, but  
17 is not limited to, warranties or guarantees for pesticide  
18 application. For structural pest control applications, the contract  
19 shall also include a statement, plat, or diagram showing all  
20 locations of visible termites and termite damaged materials which  
21 are observed, and how the application was performed;

22        12. "Defoliant" means any pesticide intended to cause the  
23 leaves or foliage to drop from a plant, with or without causing  
24 abscission;

1        13. "Desiccant" means any pesticide intended to artificially  
2 accelerate the drying of plant tissues;

3        14. "Device" means any instrument subject to the United States  
4 Environmental Protection Agency regulation intended for trapping,  
5 destroying, repelling, or mitigating insects or rodents, or  
6 mitigating fungi, bacteria, or weeds, or other pests designated by  
7 the Board, but not including equipment used for the application of  
8 pesticides when sold separately;

9        15. "Direct supervision" means that the certified applicator is  
10 responsible for assuring that persons working, subject to direct  
11 supervision, are qualified to handle pesticides and are instructed  
12 in the application of the specific pesticides used in each  
13 particular application conducted which is subject to their  
14 supervision. Certified applicators shall be accessible to the  
15 noncertified applicator at all times during the application of the  
16 pesticide by telephone, radio, or any device approved by the Board;

17        16. "Fungi" means all nonchlorophyll-bearing thallophytes,  
18 including, but not limited to, rusts, smuts, mildews, molds, yeasts,  
19 and bacteria, except those on humans or animals;

20        17. "Fungicide" means any pesticide intended for preventing,  
21 destroying, repelling, or mitigating any fungi or bacteria;

22        18. "Ground equipment" means any machine, equipment, or device  
23 other than aircraft designed for use, adaptable for use, or used on  
24

1 land or water in applying pesticides as sprays, dusts, aerosols,  
2 fogs, or other forms;

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

6 20. "Inert ingredient" means an ingredient, which is not an  
7 active ingredient;

8 21. "Ingredient statement" means a statement containing the  
9 name and percentage of each active ingredient, and the total  
10 percentage of all inert ingredients in the pesticide. If the  
11 pesticide contains arsenic in any form, the percentages of total and  
12 water-soluble arsenic shall each be calculated as elemental arsenic;

13 22. "Insect" means any of the numerous small invertebrate six-  
14 legged animals generally having the body more or less obviously  
15 segmented, many belonging to the class Insecta, including, but not  
16 limited to, beetles, bugs, and flies as well as allied classes of  
17 arthropods including spiders, mites, ticks, centipedes, and wood  
18 lice;

19 23. "Insecticide" means any pesticide intended for preventing,  
20 destroying, repelling, or mitigating any insects which may be  
21 present in any environment;

22 24. "Label" means the written, printed, or graphic matter  
23 attached to the pesticide, device, or container including the  
24

1 outside container or wrapper of the retail package of the pesticide  
2 or device;

3 25. "Labeling" means all labels and other written, printed, or  
4 graphic material:

5 a. upon the pesticide, device, or any of its containers  
6 or wrappers,

7 b. accompanying the pesticide or device at any time, or

8 c. to which reference is made on the label or in

9 literature accompanying the pesticide or device except

10 when accurate, nonmisleading reference is made to

11 current official publications of the United States

12 Environmental Protection Agency, United States

13 Department of Agriculture, United States Department of

14 the Interior, the United States Public Health Service,

15 State Experiment Stations, State Agricultural

16 Colleges, or other federal institutions or official

17 agencies of this state or other states authorized by

18 law to conduct research in the field of pesticides;

19 26. "License" means a written document issued to a person by

20 the Board which shows that the person has met all established

21 licensing requirements established by the Combined Pesticide Law and

22 who is authorized to apply pesticides as a commercial,

23 noncommercial, or private applicator pursuant to the license issued;

24

1        27. "Minimum standards" means the measures prescribed by the  
2 Board to bring appropriate pesticide services to the public;

3        28. "Misbranded" means and includes:

4            a. any pesticide or device if its labeling bears any  
5 statement, design, or graphic representation relative  
6 to its ingredients which is false or misleading, or

7            b. any pesticide or device:

8                (1) if it is an imitation of or is offered for sale  
9 under the name of another pesticide or device,

10               (2) if its labeling bears any reference to  
11 registration under the Combined Pesticide Law,  
12               (3) if the labeling accompanying it does not contain  
13 instructions for use which are necessary and, if  
14 complied with, adequate for the protection of the  
15 public,

16               (4) if the label does not contain a warning or  
17 caution statement which may be necessary and, if  
18 complied with, adequate to prevent injury to  
19 humans and vertebrate animals,

20               (5) if the label does not bear an ingredient  
21 statement on that part of the immediate container  
22 and on the outside container or wrapper, if there  
23 is one, through which the ingredient statement on  
24 the immediate container cannot be clearly read,

- 1 of the retail package which is presented or  
2 displayed under customary conditions of purchase,  
3 (6) if any word, statement, or other information  
4 required by or under the authority of the  
5 Combined Pesticide Law to appear on the labeling  
6 is not prominently placed with conspicuousness,  
7 as compared with other words, statements,  
8 designees, or graphic matter in the labeling, and  
9 in terms likely to be read and understood by an  
10 individual under customary conditions of purchase  
11 and use, or  
12 (7) if in the case of an insecticide, fungicide, or  
13 herbicide, when used as directed or in accordance  
14 with commonly recognized practice, it shall be  
15 injurious to humans, vertebrate animals, or  
16 vegetation, except weeds, to which it is applied,  
17 or to the person applying the pesticide;

18 29. "Noncommercial applicator" means any person, other than a  
19 commercial or private applicator, who uses or supervises the use of  
20 a restricted-use pesticide. The noncommercial applicator shall be  
21 under the supervision of an owner or manager of property and who is  
22 certified in the same manner as a commercial applicator. A  
23 noncommercial applicator is subject to all requirements except those  
24 pertaining to financial responsibility. Noncommercial applicator

1 includes a government employee applying restricted-use pesticides in  
2 the discharge of official duties;

3 30. "Nonrestricted-use pesticide" means any pesticide, other  
4 than a pesticide classified as restricted-use pesticide;

5 31. "Nonrestricted-use pesticide dealer" means any person  
6 engaged in the sale, storage, or distribution of any pesticide other  
7 than those pesticides classified by the United States Environmental  
8 Protection Agency or the Board as restricted-use pesticides;

9 32. "Permit" means a written document issued by the Board which  
10 shows that a person has met all of the permitting requirements  
11 established by the Combined Pesticide Law and is authorized to sell  
12 pesticides as a restricted-use or nonrestricted-use pesticide dealer  
13 in accordance with the type of permit issued;

14 33. "Pest" means any organism harmful to man including, but not  
15 limited to, insects, mites, nematodes, weeds, and pathogenic  
16 organisms. Pathogenic organisms include viruses, mycoplasma,  
17 bacteria, rickettsia, and fungi which the Board declares to be a  
18 pest;

19 34. "Pesticide" means a substance or mixture of substances  
20 intended for defoliating or desiccating plants, preventing  
21 fruitdrop, inhibiting sprouting, or for preventing, destroying,  
22 repelling, or mitigating any insects, rodents, fungi, bacteria,  
23 weeds, or other forms of plant or animal life or viruses, which the  
24

1 Board declares to be a pest, except viruses on or in humans or  
2 animals;

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

9 36. "Registrant" means the person registering any pesticide or  
10 device pursuant to the provisions of the Combined Pesticide Law;

11 37. "Restricted-use pesticide" means any pesticide classified  
12 for restricted use by the United States Environmental Protection  
13 Agency, either by regulation or through the registration process, or  
14 by the Board pursuant to the Oklahoma Agricultural Code;

15 38. "Restricted-use pesticide dealer" means any person engaged  
16 in the sale, storage, or distribution of restricted-use pesticides;

17 39. "Rodenticide" means any pesticide intended for preventing,  
18 destroying, repelling, or mitigating rodents or any other animal  
19 which the Board declares a pest;

20 40. "Service technician" means a person employed by a licensed  
21 commercial or noncommercial applicator who applies the pesticide or  
22 employs a device, but is not a certified applicator. A service  
23 technician or certified applicator shall be present at each  
24 application performed;

1        41. ~~"Temporary certified applicator" means a person who has~~  
2 ~~successfully completed the written examinations required for~~  
3 ~~certification but has not successfully completed the practical~~  
4 ~~examination;~~

5        42. "Use" means transportation, storage, mixing, application,  
6 safe handling, waste and container disposal, and other specific  
7 instructions contained on the label and labeling;

8        ~~43.~~ 42. "Weed" means any plant or plant part which grows where  
9 not wanted; and

10        ~~44.~~ 43. "Wood infestation report" means a document issued with  
11 a property transaction which shall, at a minimum, contain statements  
12 or certifications as to the presence or absence of termites and any  
13 other wood destroying insects, and the presence or absence of  
14 damage. The wood infestation report does not include a bid or  
15 proposal for treatment.

16        SECTION 2.        AMENDATORY        2 O.S. 2011, Section 3-82, as  
17 amended by Section 1, Chapter 239, O.S.L. 2017 (2 O.S. Supp. 2017,  
18 Section 3-82), is amended to read as follows:

19        Section 3-82. A. LICENSE REQUIRED - 1. It shall be unlawful  
20 for any person to act, operate, or do business or advertise as a  
21 commercial, noncommercial, certified applicator, ~~temporary certified~~  
22 ~~applicator,~~ service technician, or private applicator unless the  
23 person has obtained a valid applicator's license issued by the State  
24

1 Board of Agriculture for the category of pesticide application in  
2 which the person is engaged.

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

12 3. a. An aerial license shall not be issued or be valid  
13 unless the applicant files with the Board a copy of a  
14 valid document issued by the Federal Aviation  
15 Administration showing that the person is qualified to  
16 operate or supervise the operation of an aircraft  
17 conducting agricultural operations. Applicants for an  
18 aerial license and pilots working under a license may  
19 be subject to a complete and thorough background  
20 examination.

21 b. The Board shall promulgate rules regarding aerial  
22 applicators and applications consistent with federal  
23 law and shall solicit the assistance of the Federal  
24 Aviation Agency in the enforcement of this subsection.

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

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

8        B. CERTIFICATION REQUIRED - 1. A license shall be issued only  
9 after satisfactory completion of the certification standards by the  
10 person who shall be the certified applicator under the license.

11 ~~Temporary certified applicators do not qualify as the certified~~  
12 ~~applicator for a license, nor may they act as a certified~~  
13 ~~applicator.~~ The Board shall deny the application for certification,  
14 recertification, issuance, or renewal of a certificate or license  
15 for a failure to show proper qualification under the rules or for  
16 violations of any provisions of this section. A certificate in any  
17 category shall be valid for five (5) years unless suspended,  
18 canceled, or revoked by the Board or until recertification is  
19 required for the category, and may be renewed after successful  
20 completion of recertification requirements. The Board may require  
21 certified applicators to be recertified once in a five-year period.

22        2. A certified service technician identification shall be  
23 issued upon application and completion of certification standards  
24 determined by the Board. ~~Temporary certified applicators may~~

1 ~~qualify as a certified service technician.~~ No person shall act, do  
2 business as, or advertise as a service technician unless the person  
3 has met all the qualifications and standards as required by the  
4 Board. The service technicians' identification shall be issued in  
5 the name of the licensed entity. The licensee shall ensure that the  
6 service technician identification is returned to the Board upon  
7 termination of the employee. A service technician identification  
8 shall be valid for a period of five (5) years unless suspended,  
9 canceled, or revoked by the Board, until recertification is required  
10 by the Board, or until the service technician leaves the employ of  
11 the licensed entity. The Oklahoma Department of Agriculture, Food,  
12 and Forestry may issue a service technician identification upon  
13 completion of the following:

- 14 a. a determination is made by the Department that the  
15 applicant has successfully completed the written  
16 examination,
- 17 b. the licensed entity provides a completed service  
18 technician identification application form at the time  
19 of testing, and
- 20 c. all appropriate fees are paid at the time of testing.

21 3. Each license, except for private applicators, shall expire  
22 on ~~the 31st day of December following issuance or renewal~~ a date  
23 determined by the Department, and may be renewed for the ensuing  
24 ~~calendar year, period~~ without penalty or reexamination, if a

1 properly completed application is filed with the ~~Board~~ Department  
2 not later than the ~~1st day of January of each year~~ date determined  
3 by the Department. If application is not received by ~~January 1~~ the  
4 date determined by the Department, a penalty of twice the amount of  
5 the renewal fee shall be charged for renewal of the license. If the  
6 application is not received ~~by February 1~~ within thirty-one (31)  
7 days of the expiration date, an additional one-hundred-dollar  
8 penalty shall be paid prior to license renewal.

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

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

13 1. A fee of One Hundred Dollars (\$100.00) shall be paid to the  
14 Board for each category of pesticide application ~~shall be paid to~~  
15 ~~the Board for the issuance or renewal of a commercial applicator~~  
16 ~~business license~~. For any license with a term extended beyond one  
17 year pursuant to subsection B, paragraph 3 of this section, the  
18 applicant shall include an additional fee for each year added to the  
19 license. Not more than Five Hundred Dollars (\$500.00) total  
20 category fees shall be charged ~~annually~~ to any business location of  
21 an applicator for each calendar year licensed;

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

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

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

5        5. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
6 for ~~the issuance or renewal of a~~ each noncommercial business  
7 license. For any license term extended beyond one year pursuant to  
8 subsection B, paragraph 3 of this section, the applicant shall  
9 include an additional fee for each year added to the license. Not  
10 more than Two Hundred Fifty Dollars (\$250.00) total category fees  
11 shall be charged ~~annually~~ to any noncommercial business location of  
12 an applicator for each calendar year licensed;

13        6. A fee of Twenty Dollars (\$20.00) shall be paid to the Board  
14 for the issuance or renewal of service technician identification;

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

18        8. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
19 for each recertification procedure; and

20        9. A fee of One Hundred Dollars (\$100.00) shall be paid to the  
21 Board for each reciprocal certification procedure for applicator  
22 certifications.

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

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

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

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

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

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

1 H. DAMAGES - 1. Prior to filing an action against an  
2 applicator for damages to growing crops or plants, any person  
3 alleging damages to growing crops or plants shall:

4 a. within ninety (90) calendar days of the date that the  
5 alleged damages occurred or prior to the time that  
6 twenty-five percent (25%) of the allegedly damaged  
7 crops or plants are harvested, whichever occurs first,  
8 file a written complaint statement with the Department  
9 regarding the alleged damages, and

10 b. between the date of filing of the written complaint  
11 pursuant to subparagraph a of this paragraph and the  
12 date harvesting or destruction of the allegedly  
13 damaged crops or plants occurs, allow the applicator  
14 and the representatives of the applicator reasonable  
15 access to the property to inspect and take samples of  
16 the allegedly damaged crops or plants during  
17 reasonable hours. The representatives of the  
18 applicator may include, but not be limited to, crop  
19 consultants, bondsmen, and insurers. Nothing in this  
20 subparagraph shall limit in any way the harvesting or  
21 destruction of the allegedly damaged crops or plants  
22 in the ordinary course of business and practice.  
23  
24

1        2. Any person failing to comply with paragraph 1 of this  
2 subsection shall be barred from filing an action for damages against  
3 the applicator.

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

8        2. A permit may be issued by the Board in any category of  
9 pesticide sales if the applicant qualifies under the provisions of  
10 this section and the applicant is limited to the category of  
11 pesticide sales named on the permit. The Board may establish  
12 categories of pesticide sales as necessary.

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

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

19        5. The annual permit fee for a restricted use pesticide dealer  
20 permit shall be Fifty Dollars (\$50.00) for each location.

21        6. The Board may require a certified applicator to be present  
22 at any location where designated restricted use pesticide sales  
23 occur.  
24

1 J. PESTICIDE REGISTRATION REQUIRED - 1. Every pesticide or  
2 device distributed, sold, or offered for sale within this state or  
3 delivered for transportation or transported in intrastate or  
4 interstate commerce shall be registered with the Board.

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

7 a. the name and address of the registrant and the name  
8 and address of the person whose name shall appear on  
9 the label, if other than the registrant,

10 b. the name of the pesticide or device,

11 c. a complete copy of the labeling accompanying the  
12 pesticide or device and a statement of all claims to  
13 be made for it, and directions for use, and

14 d. if requested by the Board, a full description of the  
15 tests made and the results upon which the claims are  
16 based. In renewing a registration, a statement shall  
17 be required only with respect to information which is  
18 different from the information furnished when the  
19 pesticide or device was last registered.

20 3. Each registrant shall pay to the Board an annual  
21 registration fee of Two Hundred Ten Dollars (\$210.00) for each  
22 pesticide or device label registered. These fees shall be used by  
23 the Oklahoma Department of Agriculture, Food, and Forestry for  
24 purposes of administering pesticide management programs. A portion

1 of these fees, in the amount of Three Hundred Thousand Dollars  
2 (\$300,000.00) annually, shall be dedicated for conducting programs  
3 for unwanted pesticide disposal. This amount shall be deposited  
4 into the State Department of Agriculture Unwanted Pesticide Disposal  
5 Fund and shall be dedicated for this use only.

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

13 5. If it does not appear to the Board that the pesticide or  
14 device is adequate to warrant the proposed claims for it or if the  
15 pesticide or device, its labeling, and other material required to be  
16 submitted do not comply with the provisions of this section, it  
17 shall notify the applicant of the deficiencies in the pesticide,  
18 device, labeling, or other material required and afford the  
19 applicant an opportunity to make the necessary corrections. If the  
20 applicant claims, in writing, that the corrections are not necessary  
21 and requests in writing a hearing regarding the registration of the  
22 pesticide or device, the Board shall provide an opportunity for a  
23 hearing before refusing to issue the registration. In order to  
24 protect the public, the Board may at any time cancel the

1 registration of a product or device. In no event, shall  
2 registration of a pesticide or device be considered as a defense or  
3 excuse for the commission of any offense prohibited under this  
4 section.

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

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

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

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

23 2. All pesticide registrations shall be issued for a period of  
24 one (1) year. The registration shall be renewed annually and shall

1 expire on a date to be determined by the Board. Pesticide  
2 registrations may be renewed for the ensuing year, without penalty,  
3 if a properly completed application is filed with the Board not  
4 later than the fifteenth day of the month first following the date  
5 of expiration. If the application is not received by that date, a  
6 penalty of twice the amount of the renewal fee shall be charged for  
7 renewal of the pesticide registration.

8 M. PESTICIDE PRODUCING ESTABLISHMENTS - 1. Definitions as used  
9 in this subsection:

10 a. "establishment" means any site where a pesticide  
11 product, active ingredient or device is produced  
12 within the state,

13 b. "produce" means to manufacture, prepare, propagate,  
14 compound or process any pesticide or to package,  
15 repackage, label, relabel or otherwise change the  
16 container of any pesticide or device, and

17 c. "producer" means any person who produces,  
18 manufactures, prepares, compounds, propagates or  
19 processes any active ingredient, pesticide, or device  
20 as used in producing a pesticide.

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

1        3. The permit shall be issued only upon application on a form  
2 prescribed by the Board. The application shall contain information  
3 regarding the proposed operation of the applicant and other  
4 information as specified by the Board. If at any time there is a  
5 change of the information provided in or on the application for a  
6 pesticide producer establishment permit, the producer must notify  
7 the Board in writing within thirty (30) calendar days of the change.

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

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

18        5. All permits for pesticide producer establishments shall be  
19 issued for a period of one (1) year and shall be renewed annually.  
20 All permits shall expire on June 30 each year and may be renewed  
21 without penalty if a properly completed application is filed with  
22 the Board not later than the fifteenth day of the month first  
23 following the date of expiration. If the application is not  
24

1 received by that date, a penalty of twice the amount of the renewal  
2 fee shall be charged for renewal of the permit.

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

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

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

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

17 10. Every producer shall keep accurate records pertaining to  
18 pesticide, active ingredient, or device production and distribution  
19 as required by the Board. The records of the producer shall be kept  
20 intact at the principal producing location in this state for at  
21 least two (2) years after the date of production and distribution  
22 and copies shall be furnished to any authorized agent of the Board,  
23 immediately upon request in person, at any time during the regular  
24 business hours of the producer. Copies of records shall be

1 furnished to any authorized agent of the Board within seven (7)  
2 working days of a written request, in summary form, by mail, fax, e-  
3 mail, website, or any other electronic media customarily used.

4 N. COMPLAINT RESOLUTION - Upon receipt of a written complaint,  
5 the Board shall notify the person filing the complaint in writing of  
6 its receipt and status within two (2) working days. The person whom  
7 the complaint is filed against shall also be notified within two (2)  
8 working days. Notification that a complaint has been filed may also  
9 be given to the landowner or operator when appropriate. The  
10 resolution of a complaint is the completion of the appropriate  
11 administrative, jurisdictional, or legal remedies to the extent  
12 possible by the Department. The complainant shall be notified in  
13 writing within seven (7) working days after resolution of the  
14 complaint.

15 SECTION 3. This act shall become effective November 1, 2018.  
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1 Passed the Senate the 6th day of March, 2018.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2018.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives