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February 24, 2020

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1272

By: Bergstrom of the Senate

and

Cornwell of the House

[Combined Pesticide Law - definitions and licensure, permit and certification categories and requirements - pesticide registration exemption - effective date]

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, as amended by Section 1, Chapter 280, O.S.L. 2014 (2 O.S. Supp. 2019, Section 3-81), is amended to read as follows:

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

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

2. "Active ingredient" means an ingredient, which defoliates plants, prevents fruit drop, inhibits sprouting, or destroys,

1 repels, or mitigates insects, fungi, bacteria, rodents, weeds, or
2 other pests;

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

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

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

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

1 private applicator unless employed by a licensed entity or has a
2 valid license issued by the Board;

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

5 8. "Certified applicator" means a person who has met the
6 certification standards;

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

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

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

24

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

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

6 14. "Device" means any instrument subject to the United States
7 Environmental Protection Agency regulation intended for trapping,
8 destroying, repelling, or mitigating insects or rodents, or
9 mitigating fungi, bacteria, or weeds, or other pests designated by
10 the Board, but not including pheromone lures, pheromone traps and
11 pheromone monitoring system components and equipment used for the
12 application of pesticides when sold separately;

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

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

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

3 18. "Ground equipment" means any machine, equipment, or device
4 other than aircraft designed for use, adaptable for use, or used on
5 land or water in applying pesticides as sprays, dusts, aerosols,
6 fogs, or other forms;

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

10 20. "Inert ingredient" means an ingredient, which is not an
11 active ingredient;

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

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

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

4 24. "Label" means the written, printed, or graphic matter
5 attached to the pesticide, device, or container including the
6 outside container or wrapper of the retail package of the pesticide
7 or device;

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

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

1 26. "License" means a written document issued to a person by
2 the Board which shows that the person has met all established
3 licensing requirements established by the Combined Pesticide Law and
4 who is authorized to apply pesticides as a commercial,
5 noncommercial, or private applicator pursuant to the license issued;

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

8 28. "Misbranded" means and includes:

- 9 a. any pesticide or device if its labeling bears any
10 statement, design, or graphic representation relative
11 to its ingredients which is false or misleading, or
12 b. any pesticide or device:

- 13 (1) if it is an imitation of or is offered for sale
14 under the name of another pesticide or device,
15 (2) if its labeling bears any reference to
16 registration under the Combined Pesticide Law,
17 (3) if the labeling accompanying it does not contain
18 instructions for use which are necessary and, if
19 complied with, adequate for the protection of the
20 public,
21 (4) if the label does not contain a warning or
22 caution statement which may be necessary and, if
23 complied with, adequate to prevent injury to
24 humans and vertebrate animals,

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

23 29. "Noncommercial applicator" means any person, other than a
24 commercial or private applicator, who uses or supervises the use of

1 a restricted-use pesticide. The noncommercial applicator shall be
2 under the supervision of an owner or manager of property and who is
3 certified in the same manner as a commercial applicator. A
4 noncommercial applicator is subject to all requirements except those
5 pertaining to financial responsibility. Noncommercial applicator
6 includes a government employee applying restricted-use pesticides in
7 the discharge of official duties;

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

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

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

19 33. "Pest" means any organism harmful to man including, but not
20 limited to, insects, mites, nematodes, weeds, and pathogenic
21 organisms. Pathogenic organisms include viruses, mycoplasma,
22 bacteria, rickettsia, and fungi which the Board declares to be a
23 pest;

1 34. "Pesticide" means a substance or mixture of substances
2 intended for defoliating or desiccating plants, preventing
3 fruitdrop, inhibiting sprouting, or for preventing, destroying,
4 repelling, or mitigating any insects, rodents, fungi, bacteria,
5 weeds, or other forms of plant or animal life or viruses, which the
6 Board declares to be a pest, except viruses on or in humans or
7 animals;

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

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

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

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

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

1 40. "Service technician" means a person employed by a licensed
2 commercial or noncommercial applicator who applies the pesticide or
3 employs a device, but is not a certified applicator. A service
4 technician or certified applicator shall be present at each
5 application performed;

6 41. "Temporary certified applicator" means a person who has
7 successfully completed the written examinations required for
8 certification but has not successfully completed the practical
9 examination;

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

13 43. "Weed" means any plant or plant part which grows where not
14 wanted; and

15 44. "Wood infestation report" means a document issued with a
16 property transaction which shall, at a minimum, contain statements
17 or certifications as to the presence or absence of termites and any
18 other wood destroying insects, and the presence or absence of
19 damage. The wood infestation report does not include a bid or
20 proposal for treatment.

21 SECTION 2. AMENDATORY 2 O.S. 2011, Section 3-82, as
22 amended by Section 1, Chapter 239, O.S.L. 2017 (2 O.S. Supp. 2019,
23 Section 3-82), is amended to read as follows:
24

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

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

17 3. a. An aerial license shall not be issued or be valid
18 unless the applicant files with the Board a copy of a
19 valid document issued by the Federal Aviation
20 Administration showing that the person is qualified to
21 operate or supervise the operation of an aircraft
22 conducting agricultural operations. Applicants for an
23 aerial license and pilots working under a license may
24

1 be subject to a complete and thorough background
2 examination.

3 b. The Board shall promulgate rules regarding aerial
4 applicators and applications consistent with federal
5 law and shall solicit the assistance of the Federal
6 Aviation Agency in the enforcement of this subsection.

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

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

14 B. CERTIFICATION REQUIRED - 1. A license shall be issued only
15 after satisfactory completion of the certification standards by the
16 person who shall be the certified applicator under the license.
17 Temporary certified applicators do not qualify as the certified
18 applicator for a license, nor may they act as a certified
19 applicator. The Board shall deny the application for certification,
20 recertification, issuance, or renewal of a certificate or license
21 for a failure to show proper qualification under the rules or for
22 violations of any provisions of this section. A certificate in any
23 category shall be valid for five (5) years unless suspended,
24 canceled, or revoked by the Board or until recertification is

1 required for the category, and may be renewed after successful
2 completion of recertification requirements. The Board may require
3 certified applicators to be recertified once in a five-year period.

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

- 20 a. a determination is made by the Department that the
21 applicant has successfully completed the written
22 examination,

1 b. the licensed entity provides a completed service
2 technician identification application form at the time
3 of testing, and

4 c. all appropriate fees are paid at the time of testing.

5 3. Each license, except for private applicators, shall expire
6 on the 31st day of December following issuance or renewal, and may
7 be renewed for the ensuing calendar year, without penalty or
8 reexamination, if a properly completed application is filed with the
9 Board not later than the 1st day of January of each year. If
10 application is not received by January 1, a penalty of twice the
11 amount of the renewal fee shall be charged for renewal of the
12 license. If the application is not received by February 1, an
13 additional one-hundred-dollar penalty shall be paid prior to license
14 renewal.

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

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

19 1. A fee of One Hundred Dollars (\$100.00) for each category of
20 pesticide application shall be paid to the Board for the issuance or
21 renewal of a commercial applicator business license. Not more than
22 Five Hundred Dollars (\$500.00) total category fees shall be charged
23 annually to any business location of an applicator;
24

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

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

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

7 5. A fee of Fifty Dollars (\$50.00) shall be paid to the Board
8 for the issuance or renewal of a noncommercial business license.

9 Not more than Two Hundred Fifty Dollars (\$250.00) total category
10 fees shall be charged annually to any noncommercial business
11 location of an applicator;

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

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

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

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

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

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.
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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 8. Registration shall not be required for those pesticides or
12 devices that are not used in the state, but are registered with the
13 Environmental Protection Agency and are being manufactured,
14 transported or distributed for use outside of this state.

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

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

1 not received by that date, a penalty of twice the amount of the
2 renewal fee shall be charged for renewal of the permit.

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

12 M. PESTICIDE PRODUCING ESTABLISHMENTS - 1. Definitions as used
13 in this subsection:

14 a. "establishment" means any site where a pesticide
15 product, active ingredient or device is produced
16 within the state,

17 b. "produce" means to manufacture, prepare, propagate,
18 compound or process any pesticide or to package,
19 repackage, label, relabel or otherwise change the
20 container of any pesticide or device, and

21 c. "producer" means any person who produces,
22 manufactures, prepares, compounds, propagates or
23 processes any active ingredient, pesticide, or device
24 as used in producing a pesticide.

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

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

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

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

22 5. All permits for pesticide producer establishments shall be
23 issued for a period of one (1) year and shall be renewed annually.
24 All permits shall expire on June 30 each year and may be renewed

1 without penalty if a properly completed application is filed with
2 the Board not later than the fifteenth day of the month first
3 following the date of expiration. If the application is not
4 received by that date, a penalty of twice the amount of the renewal
5 fee shall be charged for renewal of the permit.

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

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

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

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

20 10. Every producer shall keep accurate records pertaining to
21 pesticide, active ingredient, or device production and distribution
22 as required by the Board. The records of the producer shall be kept
23 intact at the principal producing location in this state for at
24 least two (2) years after the date of production and distribution

1 and copies shall be furnished to any authorized agent of the Board,
2 immediately upon request in person, at any time during the regular
3 business hours of the producer. Copies of records shall be
4 furnished to any authorized agent of the Board within seven (7)
5 working days of a written request, in summary form, by mail, fax, e-
6 mail, website, or any other electronic media customarily used.

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

18 SECTION 3. This act shall become effective November 1, 2020.

19 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
20 February 24, 2020 - DO PASS AS AMENDED
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