

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 326

By Committee on Agriculture

1-21

12 AN ACT concerning pest control; relating to licensure requirements;
13 amending K.S.A. 2-2448 and repealing the existing section.

14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2-2448 is hereby amended to read as follows: 2-
17 2448. ~~(a) Except as provided by subsection (b),~~ **The (a) Except as pro-**
18 **vided by subsection (b), the** secretary shall not issue a pesticide business
19 license until the applicant has furnished proof of financial responsibility
20 by one of the following:

21 ~~(1) (a)~~ **(1)** A surety bond in an amount not less than ~~\$6,000~~ **\$50,000**
22 **[\$10,000]** per year. The bond shall be executed by a corporate surety
23 and shall state the effective date and the expiration date. The surety bond
24 shall be executed on a form approved by the secretary. The applicant shall
25 be named as the principal in the bond. Such bond shall be to the state of
26 Kansas and shall be conditioned upon compliance by the principal and
27 by the principal's officers, agents, representatives and employees, with
28 the provisions of this act and acts amendatory thereof and supplemental
29 thereto. It shall be unlawful for any licensed person to use the words
30 "bond" or "bonded" in advertising or in publicizing such person's oper-
31 ations in connection with the application of pesticides unless such bond
32 is a performance bond and that fact and the amount of such bond are
33 specified.

34 ~~(2) (b)~~ **(2)** A certificate of liability insurance. The certificate of liability
35 insurance shall be executed by an insurance company authorized to do
36 business in Kansas or by a licensed insurance agent operating under au-
37 thority of K.S.A. 40-246b, and amendments thereto, and shall state the
38 effective date and the expiration date of the policy. Such liability insur-
39 ance shall be subject to the insurer's policy provisions filed with and ap-
40 proved by the commissioner of insurance pursuant to K.S.A. 40-216, and
41 amendments thereto, except as authorized by K.S.A. 40-246b, and
42 amendments thereto. The liability insurance policy shall provide: ~~(A)~~ **(1)**
43 Coverage for not less than ~~\$25,000~~ **\$250,000** for bodily injury liability for

1 each occurrence; and ~~(B)~~ (2) coverage for not less than ~~\$5,000~~ *\$250,000*
2 for property damage liability for each occurrence. ~~In addition to the cov-~~
3 ~~erage specified above, if the applicant for a pesticide business license is~~
4 ~~an aerial applicator, the liability insurance policy shall provide coverage~~
5 ~~for any pesticide such applicant will be applying and for comprehensive~~
6 ~~chemical coverage.~~ Pesticide application equipment, if required to be
7 registered under K.S.A. 2-2456, and amendments thereto, shall be cover-
8 ed. The insurer shall notify the secretary, in writing, of any expiration,
9 reduction or cancellation of liability insurance, furnished as a prerequisite
10 of licensure, not later than 10 days before the expiration, reduction or
11 cancellation takes effect. Upon expiration, reduction or cancellation of
12 the liability insurance, the secretary shall suspend such pesticide appli-
13 cator's business license until the insurance requirement is met by the
14 licensee for the current license period. The certificate shall be executed
15 on a form approved by the secretary.

16 ~~(3)~~ ~~(c)~~ (3) A ~~\$6,000~~ ~~\$50,000~~ [*\$10,000*] letter of credit from a Kansas
17 financial institution, as defined in K.S.A. 16-117, and amendments
18 thereto. The letter of credit shall be executed on a form approved by the
19 secretary. The letter of credit shall state the effective date and the expi-
20 ration date and shall be valid through the term of the applicant's business
21 license. Upon cancellation of the letter of credit, the secretary shall sus-
22 pend such pesticide applicator's business license until the letter of credit
23 requirement is met by the licensee for the current license period.

24 ~~(4)~~ ~~(d)~~ (4) Maintaining a minimum balance of ~~\$6,000~~ ~~\$50,000~~
25 [*\$10,000*] in an escrow account in a Kansas financial institution as de-
26 fined in K.S.A. 16-117, and amendments thereto. The escrow account
27 shall maintain the minimum balance through the term of the applicant's
28 business license. The secretary shall be notified in writing by the financial
29 institution within 10 days if the amount in the escrow account falls below
30 the ~~\$6,000~~ ~~\$50,000~~ [*\$10,000*] minimum balance. Upon notification, the
31 secretary shall suspend such pesticide applicator's business license until
32 the escrow account minimum balance is at ~~\$6,000~~ ~~\$50,000~~ [*\$10,000*].

33 ~~(b)~~ ~~Before June 1, 1994, the financial responsibility and proof of fi-~~
34 ~~ancial responsibility required pursuant to this section prior to March 1,~~
35 ~~1994, shall continue to apply to any pesticide business holding a valid~~
36 ~~pesticide business license on February 28, 1994, and no different or ad-~~
37 ~~ditional financial responsibility or proof of financial responsibility shall be~~
38 ~~required of such business. On or before June 1, 1994, each pesticide~~
39 ~~business licensed before March 1, 1994, shall furnish to the secretary~~
40 ~~proof of financial responsibility conforming to the requirements of this~~
41 ~~section as amended by this act.~~

42 ~~—(c)~~ ~~The requirements of this section as amended by this act shall~~
43 ~~apply to any applicant applying for an original pesticide business license~~

1 ~~on or after March 1, 1994, and no different or additional financial re-~~
2 ~~sponsibility or proof of financial responsibility shall be required of such~~
3 ~~applicant.~~

4 ***New Sec. 2. If the applicant for a pesticide business license is***
5 ***an aerial applicator, the secretary shall not issue a pesticide busi-***
6 ***ness license until the applicant has furnished proof of financial re-***
7 ***sponsibility by one of the following:***

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

21 ***(b) A certificate of liability insurance. The certificate of liabil-***
22 ***ity insurance shall be executed by an insurance company author-***
23 ***ized to do business in Kansas or by a licensed insurance agent op-***
24 ***erating under authority of K.S.A. 40-246b, and amendments***
25 ***thereto, and shall state the effective date and the expiration date of***
26 ***the policy. Such liability insurance shall be subject to the insurer's***
27 ***policy provisions filed with and approved by the commissioner of***
28 ***insurance pursuant to K.S.A. 40-216, and amendments thereto, ex-***
29 ***cept as authorized by K.S.A. 40-246b, and amendments thereto. The***
30 ***liability insurance policy shall provide: (1) Coverage for not less***
31 ***than \$25,000 for bodily injury liability for each occurrence; and***
32 ***(2) coverage for not less than \$5,000 for property damage liability***
33 ***for each occurrence. In addition to the coverage specified above,***
34 ***the liability insurance policy shall provide coverage for any pesti-***
35 ***cide such applicant will be applying and for comprehensive chem-***
36 ***ical coverage. Pesticide application equipment, if required to be***
37 ***registered under K.S.A. 2-2456, and amendments thereto, shall be***
38 ***covered. The insurer shall notify the secretary, in writing, of any***
39 ***expiration, reduction or cancellation of liability insurance, fur-***
40 ***nished as a prerequisite of licensure, not later than 10 days before***
41 ***the expiration, reduction or cancellation takes effect. Upon expi-***
42 ***ration, reduction or cancellation of the liability insurance, the sec-***
43 ***retary shall suspend such pesticide applicator's business license un-***

1 *til the insurance requirement is met by the licensee for the current*
2 *license period. The certificate shall be executed on a form approved*
3 *by the secretary.*

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

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

22 Sec. ~~2~~ 3. K.S.A. 2-2448 is hereby repealed.

23 Sec. ~~3~~ 4. This act shall take effect and be in force from and after its
24 publication in the statute book.