

Approved March 1, 1989  
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at  
Chairperson

10:10 a.m./~~p.m.~~ on February 28, 1989 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Legislative Research Department  
Lynne Holt, Legislative Research Department  
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee:

Senator Allen called the committee to order and turned committee attention to SB 3; then called on Subcommittee Chairman for SB 3, Senator Sallee.

Senator Sallee explained the subcommittee had met and that amendments had been written into SB 3 so that the committee members could see the proposed changes and then to make the decision as to whether or not to request a substitute bill for SB 3; then staff was requested to give an overview of the amendments suggested.

Staff gave copies of the balloon draft with the amendments for SB 3 (attachment 1) to the committee and outlined the amendments suggested.

Committee discussion included a concern about (p), line 199 and it was explained that that referred to the use of a pesticide in an inconsistent way from label directions that the Secretary had placed limitations on pursuant to section 3. The concern was expressed that the bill should not refer to just the Secretary making a decision that the Board of the State Board of Agriculture should be included with the decision making. It was pointed out that the secretary may call on the expertise of others in making decisions.

Senator Sallee made a motion that a substitute bill be written for SB 3. Motion seconded by Senator McClure. Motion carried.

Senator Montgomery made a motion the words in (p) of line 199 be changed to read, "use any pesticide in a manner inconsistent with limitations imposed by the Secretary pursuant to Section 3." Senator Karr seconded the motion. Motion carried.

A concern was expressed for 2, 3 and 4 of New Section 2 that the committee nor the subcommittee had given thorough study of the language and that the committee should not endorse something that had not been effectively addressed.

Senator Doyen made a motion the committee recommend substitute SB 3 favorably for passage. Senator Montgomery seconded the motion. Committee discussion stated that felt the bill should be worded so that it reads clearly that the Secretary and the Board of the Board of Agriculture make decisions together.

Senator Francisco made a conceptional substitute motion that SB 3 read that the Secretary and the Board of the State Board of Agriculture make decisions together. Seconded by Senator Lee. Motion was defeated.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,  
room 423-S, Statehouse, at 10:10 a.m. ~~p.m.~~ on February 28, 19 89

The Chairman called for a vote on the motion to recommend substitute SB 3 favorably for passage. Motion carried.

The Chairman called for action on committee minutes.

Senator Francisco made a motion the committee minutes of February 22 be approved; seconded by Senator Sallee; motion carried.

Senator Allen adjourned the committee at 11:04 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: February 28, 1989

NAME	ADDRESS	ORGANIZATION
Paul K Dickhoff	1430 TOPEKA BLVD	Dept. of H.R.
OJ Ketch	401 Topeka Blvd	" " "
Allen Dennis	Topeka	KSBA
Dele Lambly	Topeka	KSBA
Kenneth M. Wilke	"	"
Chris Wilson	Topeka	KECA
John Peterson	Topeka	Natl Ag Chem Assn
Dan Wasson	Topeka	Kr Organic Producers
FRANCES Kastner	Topeka	Ks Food Dealers Assn
Bob Storey	Topeka	Ks Farm & Pest <del>Assoc.</del>
Alice S. Rubin	Topeka	Eagle Beam
Alan Steppat	Topeka	Pete Mcbill & Associates
Eva Long Sheld	Sublette, Ks 67877	
Warren Baker	Manhattan	Kansas Farm Bureau
Karl Muedener	Topeka	KOHE
Dalyst Simp Jara	Topeka	KWO
Jane Wiley	Lamont	Ks. Audubon Council
Charles Stenard	1516 Topeka Blvd	Ks Natural Service Council
Ed Henry	814 N. Main Wichita 67203	Trucker Inter-State
Alex Hawkins	Topeka	KSBA
Wilbur Leonard	Topeka	Comm Ks Farm Org
Joe Lieber	Topeka	Ks Co-op Council
GINA BOWMAN	Kansas City	FARMLAND INDUSTRIES



SENATE BILL No. 3

By Special Committee on Agriculture and Livestock

Re Proposal No. 2

12-28

Senate Agriculture  
2-28-89  
attachment 1

17 AN ACT concerning agriculture; relating to pesticides; amending 2-2448,  
18 K.S.A. ~~2-2453, 2-2454 and 2-2455~~ and K.S.A. 1988 Supp. ~~2-2440~~ 2-2438a,  
19 and 2-2467a and repealing the existing sections.

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

21 New Section 1. Any person required to be licensed, registered  
22 or certified under this act may make a pesticide recommendation or  
23 use for less than in accordance with the directions for use on the  
24 label registered under the Kansas agricultural chemical act or by the  
25 environmental protection agency, or both, if such less than label  
26 rate application has been approved by the secretary.

Insert (see attached)

27 New Sec. 2. The state board of agriculture is hereby authorized  
28 to develop chemical use districts or management districts. These  
29 districts shall be developed by including, but not limiting to, the  
30 following factors:

- 31 (a) Rainfall;
- 32 (b) topography;
- 33 (c) soil type; and
- 34 (d) depth of the watertable.

35 These districts shall be designated as permitted or prohibited for  
36 use of certain types of pesticides.

37 Sec. ~~2~~ K.S.A. 1988 Supp. 2-2440 is hereby amended to read as  
38 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is  
39 unlawful for any pesticide business which has not been issued a  
40 pesticide business license to:

- 41 (1) ~~Engage in the business of applying pesticides to the property~~
- 42 ~~of another within this state; or~~
- 43 (2) apply any pesticide on or at the premises of another person

Advertise, offer for sale, sell or perform any service for the control  
of a pest on the property of another or apply a pesticide to the property of  
another within this state; or  
(2) perform any service for the control of a pest or

Section 1. K.S.A. 1988 Supp. 2-2438a is hereby amended to read as follows: 2-2438a. As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

(a) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

(b) "Board" means the board of agriculture of the state of Kansas.

(c) "Certified applicator" means any individual who is certified under this act to use or supervise the use of any restricted use pesticide which is classified for restricted use by a certified applicator.

(1) "Certified commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided in paragraph (2) of this subsection (c).

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of: (A) producing any agricultural commodity, (i) on property owned or rented by such person or such person's employer or, (ii) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person; or (B) controlling ornamental shrubbery or turf pests on property which is owned or rented by such person and which is used as such person's residence.

(d) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(e) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of

plant tissue.

(f) "Equipment" means any ground, water or aerial apparatus, used to apply any pesticide but shall not include any pressurized hand size household apparatus used to apply any pesticide or any equipment, apparatus or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(g) "Fungus" means any nonchlorophyll-bearing thallophyte, including, but not limited to, rust, smut, mildew, mold, yeast and bacteria, except those on or in man or other animals and those on or in processed food, beverages or pharmaceuticals.

(h) "General use pesticide" shall mean and include all pesticides which have not been designated, by rule or regulation of the secretary or the board, as being restricted use pesticides.

(i) "Insect" means any small invertebrate animal having the body segmented, belonging to the class insecta and other classes of arthropods, including, but not limited to, beetles, bugs, bees, flies, spiders, mites, ticks and centipedes.

(j) "Registered pest control technician" means an uncertified commercial applicator who applies pesticides for wood destroying pest control, for structural pest control, for ornamental pest control, or for turf pest control, or for any combination of these types of pest control, and who has received verifiable training.

(k) "Nematode" means any unsegmented roundworms of the class nematoda, with elongated, fusiform, or saclike bodies covered with cuticle, inhabiting soil, water, plants or plant parts. Such roundworms may also be referred to as nemas or eelworms.

(l) "Person" means any individual, partnership, association of persons, corporation or governmental agency.

(m) "Pest" means, but is not limited to, any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other

microorganism, except viruses, bacteria or other microorganisms on or in man or other animals, or which the secretary may declare to be a pest.

(n) "Pesticide" means, but is not limited to, (1) any substance or mixture of substances used to prevent, destroy, control, repel, attract or mitigate any pest and (2) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant.

(o) "Pesticide business" means any individual, partnership, association of persons or corporation which applies pesticides to the property of another for compensation.

(p) "Pesticide business licensee" shall mean an individual, business, association of persons or corporation who is licensed or would be required to be licensed under the provisions of K.S.A. ~~1987~~ 1988 Supp. 2-2440, and amendments thereto.

(q) "Pesticide dealer" means any person who sells a pesticide to another person for application.

(r) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants but shall not include substances insofar as they are used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments. The term "plant regulator" shall not include any such nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and not for pest destruction if such mixtures or soil amendments, in the undiluted packaged concentration are nontoxic and nonpoisonous.

(s) "Restricted use pesticide" shall mean and include all pesticide uses designated as such by rules and regulations of the secretary or the board.

(t) "Secretary" means the secretary of the state board of agriculture.

(u) "Under the supervision of" means, unless otherwise



provided by the labeling of the pesticide product, acting under the instructions and control of another person who is available if and when needed, even though such other person is not physically present at the time and place the act is done.

(v) "Weed" means any plant or part thereof which grows where not wanted.

(w) "Use of any pesticide in a manner inconsistent with its label or labeling" means to use any pesticide in a manner not permitted by the label or labeling.

(x) "Pest control" means the destruction, prevention, repulsion or mitigation of a population, infection or infestation of a pest.

(y) "Pesticide management area" means a site or area designated by the secretary pursuant to section 4 within which a pesticide management plan is deemed necessary for the protection of the public health, safety, welfare or natural resources of the state.

(z) "Natural resources" means and includes soils, water and any form of terrestrial or aquatic or animal life.

(aa) "Pesticide rinsate" means the water contaminated with pesticides from the cleaning of the inside of pesticide containers or pesticide tanks.

New Sec. 2. Unless limited by section 3, the applicator may: (1) Apply a pesticide at any dosage, concentration or frequency less than that specified on the label or labeling; (2) apply a pesticide against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling, unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling after the secretary has determined that the use of the pesticide against other pests would cause an unreasonable effect on the environment; (3) employ any method of application not prohibited by the labeling; or (4) mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

New Sec. 3. Notwithstanding the provisions of section 2, whenever the secretary deems it necessary to preserve the health, safety and welfare or the natural resources of the state, the secretary is hereby authorized to promulgate rules and regulations imposing limitations on the use of any pesticide in a manner inconsistent with its label or labeling.

New Sec. 4. (a) The secretary of the Kansas state board of agriculture is hereby authorized and may develop pesticide management areas after receiving notification by the administrator of the United States environmental protection agency or by the secretary of the Kansas department of health and environment, that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

(b) The secretary upon the secretary's own investigation may initiate such proceedings whenever the secretary has reason to believe that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

New Sec. 5. (a) The pesticide management areas shall be developed by examination of the following factors:

- (1) Precipitation;
- (2) topography;
- (3) soil type;
- (4) depth to the watertable; and
- (5) other factors as the secretary deems relevant.

The areas shall be designated as permitted, modified or prohibited for the use of certain types of pesticides as determined by the pesticide management plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including but not limited to the application, mixing,

loading, storage, disposal or transportation and guidelines for the best management practices.

(b) When considering whether to establish such pesticide management areas, the secretary shall consult with a technical advisory committee composed of a representative or representatives of each of the following institutions: (1) Kansas department of health and environment; (2) Kansas department of wildlife and parks; (3) Kansas state university; (4) Kansas water authority; (5) conservation commission; (6) Kansas geological survey; and (7) other persons the secretary determines to have beneficial information to the establishment of such areas. This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

New Sec. 6. Notwithstanding the provisions of section 7, before designating any pesticide management area, the secretary shall hold a public hearing at which any interested party may appear and be heard in person or by attorney. Notice of the hearing shall be given by a publication in the Kansas register and by three publications in a newspaper or newspapers of general circulation within the area in question within the 30-day period prior to the date set for the hearing. The notice shall state the proposed boundaries of the pesticide management area and a summary of the proposed pesticide management plan to be applied within the proposed pesticide management area.

New Sec. 7. Where, in the opinion of the secretary, a pesticide poses an imminent threat to the public health, safety and welfare or the natural resources of this state the secretary is authorized to establish temporary pesticide management areas for a period not to exceed 90 days. The order of designation of a temporary pesticide management area shall be in full force and effect upon entry in the records of the secretary and the secretary shall take all steps reasonably necessary to disseminate the information of the order to all interested

parties.

New Sec. 8. Notwithstanding the provisions of section 7, the order of designation of a pesticide management area shall be in full force and effect 60 days from the date of publication in the Kansas register unless and until its operation shall be stayed by an appeal therefrom in accordance with the provisions of the act for judicial review and civil enforcement of agency action. The secretary upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county which lies within such designated pesticide management area.

New Sec. 9. The secretary is authorized to revoke, modify or expand the boundaries or plan of a pesticide management area after publication and public hearings, pursuant to section 6, on the proposed change.

New Sec. 10. Following the establishment of any pesticide management area, all persons shall use pesticides consistently with the provisions of the pesticide management plan for the pesticide management area. Any person who applies pesticides in violation of a plan of an established pesticide management area may incur a civil penalty in the amount fixed by rules and regulations of the secretary in an amount not less than \$100 nor more than \$5,000 for each violation.

New Sec. 11. The secretary shall initiate a statewide program to educate the public on pesticide management areas and pesticide management plans. The secretary may use other state agencies as well as the Kansas cooperative extension service to disseminate this information to the public.

44 under any commission, division of receipts or subcontracting ar-  
45 rangement with a licensed pesticide business.

46 ~~(2) advertise pest control services through any media source or~~  
47 ~~(4) conduct wood destroying organism inspections.~~

48 Nothing in this subsection shall be construed to require the li-  
49 censing of any person applying restricted use pesticides to the prop-  
50 erty of another as a certified private applicator or under the  
51 supervision of a certified private applicator.

52 (b) Application for a pesticide business license or renewal shall  
53 be made in writing to the secretary on a designated form obtained  
54 from the secretary's office and shall be accompanied by an application  
55 fee per category in which the licensee applies, and an additional fee  
56 for each uncertified individual employed by the applicant to apply  
57 pesticides. The application fee per category and the additional fee  
58 for each such uncertified employee shall be fixed by rules and reg-  
59 ulations adopted by the state board of agriculture except that such  
60 fees shall not exceed an application fee of \$100 per category in which  
61 the licensee applies and an additional fee of \$10 for each uncertified  
62 individual employed by the applicant to apply pesticides. The ap-  
63 plication fee per category and the additional fee for each uncertified  
64 employee in effect on the day preceding the effective date of this  
65 act shall continue in effect until the state board of agriculture adopts  
66 rules and regulations fixing a different fee therefor under this sub-  
67 section. Any uncertified individual employed for a period of more  
68 than 10 days in a 30-day period or for five consecutive days by a  
69 licensee to apply pesticides subsequent to such application shall be  
70 reported to the secretary within 30 days of such employee's hiring  
71 and the fee shall be paid at that time. Each application shall also  
72 include the following:

73 (1) The business name of the person applying for such license  
74 or renewal;

75 (2) if the applicant is an individual, receiver, trustee, repre-  
76 sentative, agent, firm, partnership, association, corporation or other  
77 organized group of persons, whether or not incorporated, the full  
78 name of each owner of the firm or partnership or the names of the  
79 officers of the association, corporation or group;

80 (3) the principal business address of the applicant in the state

81 and elsewhere; and

82 (4) any other information the secretary, by rules and regulations,  
83 deems necessary for the administration of this act.

84 (c) The secretary may issue a pesticide business license to apply  
85 pesticides in categories for which an applicant has applied if the  
86 applicant files the bond or insurance required under K.S.A. 2-2448  
87 and amendments thereto, satisfies the requirements of subsection  
88 (b), and pays the required fees. Such license shall expire at the end  
89 of the calendar year for which it is issued unless it has been revoked  
90 or suspended prior thereto. If a license is not issued as applied for,  
91 the secretary shall inform the applicant in writing of the reasons  
92 therefor.

93 (d) The following persons shall be exempted from the licensing  
94 requirements of this act:

95 (1) State or federal personnel using pesticides or pest control  
96 services while engaged in pesticide use research;

97 (2) veterinarians or physicians using pesticides as a part of their  
98 professional services; and

99 (3) any person or such person's employee who applies pesticides  
100 on or at premises owned, leased or operated by such person.

101 (e) Subject to the provisions of subsection (d), it is unlawful for  
102 any governmental agency which has not been issued a government  
103 agency registration to apply pesticides within this state. Application  
104 for government agency registration shall be made in writing to the  
105 secretary on a designated form obtained from the secretary's office  
106 and shall be accompanied by a fee fixed by rules and regulations  
107 adopted by the state board of agriculture, except that such fee shall  
108 not exceed \$35. The governmental agency registration fee in effect  
109 on the day preceding the effective date of this act shall continue in  
110 effect until the state board of agriculture adopts rules and regulations  
111 fixing a different fee therefor under this subsection. No fee shall be  
112 required of any township located within a county which has previ-  
113 ously applied for and received government agency registration. Each  
114 application for registration shall contain information including, but  
not limited to:

115 (1) The name of the government agency;

117 (2) the mailing address of the applicant;

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118 (3) the name and mailing address of the person who heads such  
 119 agency and who is authorized to receive correspondence and legal  
 120 papers. Such person shall be (A) the mayor or city manager for  
 121 municipalities, (B) the chairperson of the board of county commis-  
 122 sioners for counties, (C) the township trustee for townships or (D)  
 123 any person designated by any other governmental agency; and

124 (4) any other information the secretary, by rules and regulations,  
 125 deems necessary for the administration of this act.

126 (f) If the secretary finds the application to be sufficient, the sec-  
 127 retary shall issue a government agency registration. The government  
 128 agency is not required to furnish a surety bond under this act. Such  
 129 government agency registration shall expire at the end of the calendar  
 130 year for which it is issued unless it has been revoked or suspended  
 131 prior thereto. If a registration is not issued as applied for, the sec-  
 132 retary shall inform the applicant in writing of the reasons therefor.

133 (g) A pesticide business license or government agency registration  
 134 may be renewed by meeting the same requirements as for a new  
 135 license or registration. Neither the pesticide business license nor the  
 136 government agency registration shall be transferable, except that, in  
 137 the event of the disability, incapacity or death of the owner, manager  
 138 or legal agent of a pesticide business licensee, a permit may be  
 139 issued by the secretary to permit the operation of such business  
 140 until the expiration period of the license in effect at the time of  
 141 such disability, incapacity or death if the applicant therefor can show  
 142 that the policies and services of such business will continue sub-  
 143 stantially as before, with due regard to protection of the public and  
 144 the environment.

145 (h) No pesticide business license may be issued to any person  
 146 until such person is or has in such person's employ one or more  
 147 individuals who are certified commercial applicators in each of the  
 148 categories for which the license application is made.

149 Sec. ~~2~~ K.S.A. 2-2453 is hereby amended to read as follows: 2-  
 150 2453. It shall be unlawful for any person to: (a) *Except as provided*  
 for in section ~~1~~, use pesticides in a manner which is inconsistent  
 with such pesticide's label or labeling; or

153 (b) discard or store any pesticide or pesticide container in such  
 154 a manner as to cause injury to humans, vegetation, crops, livestock,

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155 wildlife, pollinating insects or waterways and wildlife therein; or  
156 (c) fail to comply with any other provision of this act or any rule  
157 or regulation adopted pursuant thereto.

158 Sec. ~~5~~ K.S.A. 2-2454 is hereby amended to read as follows: 2-  
159 2454. It shall be unlawful for any person required to be licensed,  
160 registered or certified under the provisions of this act to: (a) Make  
161 false or fraudulent claims through any media, misrepresenting the  
162 effect of material or methods to be utilized; or

163 ~~(b) make a pesticide recommendation or use not in accordance~~  
164 ~~with the directions for use shown on the label registered under the~~  
165 ~~Kansas agricultural chemical act and/or by the environmental pro-~~  
166 ~~tection agency; or~~

167 ~~(c)-(b)~~ knowingly use ineffective or improper methods or mate-  
168 rials; or

169 ~~(d)-(c)~~ knowingly operate faulty, unsafe or, if registration is re-  
170 quired, unregistered equipment, or operate any equipment in a  
171 negligent manner; or

172 ~~(e)-(d)~~ refuse or neglect to keep and maintain records required  
173 by this act, or refuse or neglect to make records available when and  
174 as required by this act; or

175 ~~(f)-(e)~~ make false or fraudulent records, invoices or reports; or

176 ~~(g)-(f)~~ use fraud or misrepresentation in making an application  
177 for or renewal of a license, registration, permit or certificate; or

178 ~~(h)-(g)~~ refuse or neglect to comply with any limitations or re-  
179 strictions on or in a duly issued license, registration, permit or  
180 certificate; or

181 ~~(i)-(h)~~ aid, abet or conspire with any person to evade any of the  
182 provisions of this act, or allow a license, registration, permit or  
183 certificate to be used by an unlicensed or uncertified person; or

184 ~~(j)-(i)~~ impersonate any state, county or city inspector or official,  
185 as acting in their official capacity; or

186 ~~(k)-(j)~~ make any misrepresentation or defraud any member of the  
187 public; or

188 ~~(l)-(k)~~ permit a pesticide business license or contract forms to be  
189 used by any unlicensed person who is not a salaried or commissioned  
190 employee or representative of such licensee, for use in applying  
191 pesticides under any commission or subcontracting arrangement; or

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192 ~~(m)-(l)~~ use any method or material without regard to public  
193 health, safety or welfare;

194 (m) engage in or advertise to provide pest control services with-  
195 out benefit of proper licenses, certification or registration;

196 (n) use, store, dispose of ~~pesticide material or containers~~ without  
197 regard to public health or environmental damage; ~~or~~

198 (o) fail to maintain and provide a copy of pesticide product labels  
199 and material safety data sheets to customers when so requested;

200 Sec. 6. ~~K.S.A. 2-2455~~ is hereby amended to read as follows: 2-  
201 2455. (a) Each pesticide business shall present to each customer for  
202 whom ~~he or she~~ such business performs a pest control service in-  
203 volving the application of pesticides a written statement of services  
204 or contract setting forth the following information: (1) Business name  
205 and address of the pesticide business licensee;

206 (2) name and address of the customer;

207 (3) pest or pests to be controlled, which may be stated in general  
208 terms;

209 (4) pesticide to be used including the kind ~~and quantity~~;

210 (5) the date and location of the application of the pesticide;

211 (6) the expiration date of all guarantees, if any be given;

212 (7) the signature of the ~~authorized officer or representative of the~~  
213 ~~pesticide business licensee who prepared the statement of services;~~  
214 and

215 (8) the wind direction and velocity, when applicable; and

216 (9) that the application was less than label rate, when applicable.

217 (b) Whenever the service involving the application of pesticides  
218 is performed for the purpose of controlling termites, powder-post  
219 beetles, wood borers, wood-rot fungus or any other wood destroying  
220 pest, the following information shall be included in addition to that  
221 required under subsection (a) ~~of this section~~: (1) The conditions under  
222 which re-treatments, if any are to be made;

223 (2) the approximate date or dates of inspections, for any to be  
224 made after the original application of the pesticide; and

225 (3) a diagram of the structure to be treated, showing the location  
226 of visible evidence of active and inactive infestations by any wood  
227 destroying pest or pests for which the treatment is proposed; where  
228 a partial or spot treatment is to be made, this diagram shall also

any pesticide material, pesticide rinsate or pesticide container

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~~; or ¶ (p) use any pesticide that the secretary has imposed limitations  
on pursuant to section 3~~

, rate of application, concentration and quantity applied

individual who performed or supervised the performance of the pest control  
service or the application of pesticides

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229 show the area or areas of the structure which are to be treated.

230 (c) The required written statement of services or contract for  
231 services involving the application of pesticides may be incorporated  
232 into any business form used by the pesticide business licensee. ~~Pro-~~  
233 ~~vided, That.~~ The written statement of services or contract shall be  
234 presented to the customer at a time established by rules and reg-  
235 ulations promulgated by the secretary or board. ~~Provided further,~~  
236 ~~That.~~ Any pesticide business licensee using aerial methods of ap-  
237 plying pesticides may present such information at any time prior to  
238 the time payment is accepted. The pesticide business licensee shall  
239 retain a copy of each written statement of services or contract in his  
240 ~~or her~~ ~~such licensee's~~ files for a period of three (3) years from the  
241 expiration date of any written statement of services or contract. Each  
242 pesticide business licensee shall faithfully carry out the stipulations  
243 set forth in any written statement of services or contract prepared  
244 by such licensee or any of its representatives.

245 (d) Each pesticide business licensee shall make available to the  
246 secretary upon request, a copy of any written statement of services  
247 or contract, records of all pesticide applications during any specified  
248 period, records of all employees who performed any service involv-  
249 ing, or in conjunction with, the application of pesticides and any  
250 other requested information pertinent to the administration of this  
251 act or any rule or regulation adopted hereunder by the board.

252 (e) The secretary shall require certified commercial applicators  
253 who are not employed by or otherwise acting for a business licensee  
254 to maintain records concerning applications of restricted use pesti-  
255 cides. The secretary shall specify by rules and regulations the in-  
256 formation to be contained in such records, which shall be maintained  
257 for three (3) years from the date of application of the pesticide  
258 concerned. Such records shall be open to inspection by the secretary  
259 or ~~his or her~~ ~~the secretary's~~ authorized representative during normal  
260 business hours, and copies shall be furnished to the secretary or his  
261 ~~or her~~ ~~the secretary's~~ authorized representative upon request.

262 Sec. ~~7~~ K.S.A. 1988 Supp. 2-2467a is hereby amended to read 16  
as follows: 2-2467a. The secretary is hereby authorized to promulgate  
and adopt rules and regulations for the administration of this act  
265 and concerning the following matters which include but are not

1-15

266 limited to:

267 (a) The designation of certain pesticides as restricted use pesti-  
268 cides as provided in K.S.A. 2-2439, and amendments thereto;

269 (b) the designation of categories for the issuance of pesticide  
270 business licenses as provided in K.S.A. 2-2444a, and amendments  
271 thereto;

272 (c) the designation of categories for the certification of applicators  
273 as provided in K.S.A. 2-2444a, and amendments thereto;

274 (d) the designation of training requirements for those persons  
275 applying for a pest control technician's registration as provided in  
276 K.S.A. 1987 Supp. 2-2440b;

277 (e) the registration and identification of equipment used in the  
278 commercial application of pesticides as provided in K.S.A. 2-2456,  
279 and amendments thereto;

280 (f) the storing and discarding of pesticides ~~and pesticide~~, pesticide materials, pesticide rinsates and pesticide containers  
281 ~~containers;~~

282 (g) proper health and safety precautions;

283 (h) proof of financial responsibility including acceptable surety  
284 bond or liability insurance coverage; and

285 (i) furnishing of reports and information necessary for the sec-  
286 retary to carry out the provisions of this act; ~~and~~

287 (j) ~~the designation of pesticides which may be used at less than~~  
288 ~~label rates, as provided in section 17~~

imposing limitations on the use of any pesticide in a manner inconsistent with its label or labeling, pursuant to section 3; and

289 ~~Sec. 8~~ K.S.A. 2-2453, 2-2454 and 2-2455 and K.S.A. 1988 Supp.  
290 2-2440 and 2-2467a are hereby repealed.

(k) any procedural or other matters related to the designation of pesticide management areas

291 ~~Sec. 8~~ This act shall take effect and be in force from and after  
292 its publication in the statute book.

Insert Sec. 17. (see attached)  
2-2448,  
2-2438a,

293

Sec. 17. K.S.A. 2-2448 is hereby amended to read as follows: 2-2448. The secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility including a surety bond or a certificate of liability insurance as a condition precedent to such license being issued. The bond or certificate of liability insurance shall be executed by a corporate surety or insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The surety bond and certificate shall be executed on a form supplied approved by the secretary. The applicant shall be named as the principal in the bond. ~~Prior to January 1, 1983, the amount of the bond coverage shall be fixed by the secretary, but shall not be less than \$2,000 per year.~~ On and after January 1, 1983, the amount of the bond coverage shall be fixed by the secretary, but shall not be less than \$6,000 per year. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and acts amendatory thereof and supplemental thereto.

The liability insurance policy shall provide coverage (a) for not less than \$25,000 for bodily injury liability for each occurrence; and (b) for not less than \$5,000 for property damage liability for each occurrence, ~~and with not more than a \$500 deductible clause for each occurrence.~~ Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto, shall be covered.

The secretary shall be notified in writing by the insurer at least 10 days prior to the effective date of any reduction or cancellation of liability insurance which was supplied as a

prerequisite to licensing. Upon reduction or cancellation of the liability insurance, the secretary shall suspend such pesticide applicator's business license until the bond requirement or the insurance requirement is met by the licensee for the current license period.

It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or in publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and that fact and the amount of such bond are specified.