

Approved March 3, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at
Chairperson

9:08 a.m./~~pm~~ on Thursday, February 27, 1992 in room 423-S of the Capitol.

All members were present ~~xxxx~~

Committee staff present: Raney Gilliland, Legislative Research
Lynne Holt, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee: None

Chairman Hamm opened discussion on **HB 2725** - licensing and regulating auctioneers.

Representative Rock moved to amend **HB 2725** as requested by Kansas Livestock Association. Seconded by Wisdom. Motion carried.

Representative Rock made a motion to amend the bill further by deleting "as outlined in section 5" on page 6, line 19. Seconded by Representative Wisdom. Motion carried.

Representative Rock made a motion to pass **HB 2725** favorably as amended. Seconded by Representative Wisdom. Discussion followed. Motion failed.

Discussion was opened on **HB 2704** - relating to pesticides.

Representative White made a motion to amend **HB 2704**. (Attachment 1). Representative Wisdom seconded. After extensive discussion, motion failed.

Representative Heinemann moved to report **HB 2704** adversely. Representative Weiland seconded. Motion carried.

Representative Garner informed the committee of an agreement being reached on **HB 2737** - outdoor power equipment. He will provide amendments to the committee for future discussion and vote.

Discussion was held on **HB 2827** - grain inspection department; fees and services.

Representative Gatlin made motion to pass **HB 2827**. Representative Lloyd seconded. Discussion followed. Motion carried.

Discussion on **HB 2803** - regulation of feedlots and other sources of sewage discharge, was opened.

Representative Lloyd made a motion that **HB 2803** be not passed. Representative Lawrence seconded. Motion carried.

The meeting adjourned at 9:35 a.m. The next meeting of the House Agriculture Committee will be Monday, March 2, 1992, at 9:00 a.m. in room 423-S, State Capitol.

HOUSE BILL No. 2704

By Representative Wiard

(By request)

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10 AN ACT concerning agriculture; relating to pesticides; amending
11 K.S.A. 2-2440, 2-2448 and 2-2467a and repealing the existing
12 sections.
13

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

15 Section 1. K.S.A. 2-2440 is hereby amended to read as follows:
16 2-2440. (a) Subject to the provisions of subsection (d), it is unlawful
17 for any pesticide business which has not been issued a pesticide
18 business license to:

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

22 (2) perform any service for the control of a pest or apply any
23 pesticide on or at the premises of another person under any com-
24 mission, division of receipts or subcontracting arrangement with a
25 licensed pesticide business.

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

30 (b) Application for a pesticide business license or renewal shall
31 be made in writing to the secretary on a designated form obtained
32 from the secretary's office and shall be accompanied by an application
33 fee per category in which the licensee applies, and an additional fee
34 for each uncertified individual employed by the applicant to apply
35 pesticides. The application fee per category and the additional fee
36 for each such uncertified employee shall be fixed by rules and reg-
37 ulations adopted by the state board of agriculture except that such
38 fees shall not exceed an application fee of \$100 per category in which
39 the licensee applies and an additional fee of \$10 for each uncertified
40 individual employed by the applicant to apply pesticides. The ap-
41 plication fee per category and the additional fee for each uncertified
42 employee in effect on the day preceding the effective date of this
43 act shall continue in effect until the state board of agriculture adopts

ATTACHMENT
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1 rules and regulations fixing a different fee therefor under this sub-
2 section. Any uncertified individual employed for a period of more
3 than 10 days in a 30-day period or for five consecutive days by a
4 licensee to apply pesticides subsequent to such application shall be
5 reported to the secretary within 30 days of such employee's hiring
6 and the fee shall be paid at that time. Each application shall also
7 include the following:

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

10 (2) if the applicant is an individual, receiver, trustee, represen-
11 tative, agent, firm, partnership, association, corporation or other
12 organized group of persons, whether or not incorporated, the full
13 name of each owner of the firm or partnership or the names of the
14 officers of the association, corporation or group;

15 (3) the principal business address of the applicant in the state
16 and elsewhere; and

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

19 (c) The secretary may issue a pesticide business license to apply
20 pesticides in categories for which an applicant has applied if the
21 applicant files the ~~insurance for [drift] occurrences~~ and bond or in-
22 surance for other occurrences required under K.S.A. 2-2448, and
23 amendments thereto, satisfies the requirements of subsection (b),
24 and pays the required fees. Such license shall expire at the end of
25 the calendar year for which it is issued unless it has been revoked
26 or suspended prior thereto. If a license is not issued as applied for,
27 the secretary shall inform the applicant in writing of the reasons
28 therefor.

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

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

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

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

37 (e) Subject to the provisions of subsection (d), it is unlawful for
38 any governmental agency which has not been issued a government
39 agency registration to apply pesticides within this state. Application
40 for government agency registration shall be made in writing to the
41 secretary on a designated form obtained from the secretary's office
42 and shall be accompanied by a fee fixed by rules and regulations
43 adopted by the state board of agriculture, except that such fee shall

bond or

{ of drift from aerial application of pesticides

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1 not exceed \$35. The governmental agency registration fee in effect
2 on the day preceding the effective date of this act shall continue in
3 effect until the state board of agriculture adopts rules and regulations
4 fixing a different fee therefor under this subsection. No fee shall be
5 required of any township located within a county which has previ-
6 ously applied for and received government agency registration. Each
7 application for registration shall contain information including, but
8 not limited to:

- 9 (1) The name of the government agency;
- 10 (2) the mailing address of the applicant;
- 11 (3) the name and mailing address of the person who heads such
12 agency and who is authorized to receive correspondence and legal
13 papers. Such person shall be (A) the mayor or city manager for
14 municipalities, (B) the chairperson of the board of county commis-
15 sioners for counties, (C) the township trustee for townships or (D)
16 any person designated by any other governmental agency; and
17 (4) any other information the secretary, by rules and regulations,
18 deems necessary for the administration of this act.

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

26 (g) A pesticide business license or government agency registration
27 may be renewed by meeting the same requirements as for a new
28 license or registration. Neither the pesticide business license nor the
29 government agency registration shall be transferable, except that, in
30 the event of the disability, incapacity or death of the owner, manager
31 or legal agent of a pesticide business licensee, a permit may be
32 issued by the secretary to permit the operation of such business
33 until the expiration period of the license in effect at the time of
34 such disability, incapacity or death if the applicant therefor can show
35 that the policies and services of such business will continue sub-
36 stantially as before, with due regard to protection of the public and
37 the environment.

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

42 Sec. 2. K.S.A. 2-2448 is hereby amended to read as follows: 2-
43 2448. (a) The secretary shall not issue a pesticide business license

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1 until the applicant has furnished proof of financial responsibility in-
 2 cluding a *certificate of liability insurance* ~~to cover occurrences of~~ or a surety bond
 3 *drift from aerial application of pesticides* and a surety bond or a
 4 certificate of liability insurance *to cover other occurrences* as a con-
 5 dition precedent to such license being issued. The bond or certificate
 6 of liability insurance shall be executed by a corporate surety or
 7 insurance company authorized to do business in Kansas or by a
 8 licensed insurance agent operating under authority of K.S.A. 40-
 9 246b, and amendments thereto, and shall state the effective date
 10 and the expiration date. Such liability insurance shall be subject to
 11 the insurer's policy provisions filed with and approved by the com-
 12 missioner of insurance pursuant to K.S.A. 40-216, and amendments
 13 thereto, except as authorized by K.S.A. 40-246b, and amendments
 14 thereto. The surety bond and certificate shall be executed on a form
 15 approved by the secretary. The applicant shall be named as the
 16 principal in the bond. ~~On and after January 1, 1983,~~ The amount
 17 of the bond coverage shall be fixed by the secretary, but shall not
 18 be less than \$6,000 per year. Such bond shall be to the state of
 19 Kansas and shall be conditioned upon compliance by the principal
 20 and by the principal's officers, agents, representatives and employ-
 21 ees, with the provisions of this act and acts amendatory thereof and
 22 supplemental thereto.

23 (b) ~~[The liability insurance policy required]~~ for occurrences of drift
 24 from aerial application of pesticides ~~[shall provide coverage: (1) For]~~
 25 not less than \$25,000 for bodily injury liability for each drift oc-
 26 currence; and ~~[(2) for]~~ not less than \$50,000 for property damage
 27 liability for each drift occurrence.

28 (c) The liability insurance policy for other occurrences shall pro-
 29 vide coverage (a): (1) For not less than \$25,000 for bodily injury
 30 liability for each occurrence; and (b) (2) for not less than \$5,000 for
 31 property damage liability for each occurrence. Pesticide application
 32 equipment, if required to be registered under K.S.A. 2-2456, and
 33 amendments thereto, shall be covered.

34 (d) The secretary shall be notified in writing by the insurer at
 35 least 10 days prior to the effective date of any reduction or cancel-
 36 lation of liability insurance which was supplied as a prerequisite to
 37 licensing. Upon reduction or cancellation of the liability insurance,
 38 the secretary shall suspend such pesticide applicator's business li-
 39 cense until the bond requirement or the insurance requirement is
 40 met by the licensee for the current license period.

41 (e) It shall be unlawful for any licensed person to use the words
 42 "bond" or "bonded" in advertising or in publicizing such person's
 43 operations in connection with the application of pesticides unless

the required insurance or bond coverage shall be as follows: (1) If a liability insurance policy: (A)

(B)

; or (2) if a surety bond, in an amount not less than \$50,000

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1 such bond is a performance bond and that fact and the amount of
2 such bond are specified.

3 Sec. 3. K.S.A. 2-2467a is hereby amended to read as follows: 2-
4 2467a. The secretary is hereby authorized to promulgate and adopt
5 rules and regulations for the administration of this act and concerning
6 the following matters which include but are not limited to:

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

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

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

14 (d) the designation of training requirements for those persons
15 applying for a pest control technician's registration as provided in
16 K.S.A. 2-2440b, and amendments thereto;

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

20 (f) the storing and discarding of pesticides, pesticide materials,
21 pesticide reinstates and pesticide containers;

22 (g) proper health and safety precautions;

23 (h) proof of financial responsibility including acceptable ~~liability~~
24 insurance coverage for ~~drift~~ occurrences and surety bond or liability
25 insurance coverage for other occurrences;

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

28 (j) imposing limitations on the use of any pesticide in a manner
29 inconsistent with its label or labeling, pursuant to K.S.A. 2-2471,
30 and amendments thereto; and

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

33 Sec. 4. K.S.A. 2-2440, 2-2448 and 2-2467a are hereby repealed.

34 Sec. 5. This act shall take effect and be in force from and after
35 its publication in the statute book.

surety bond or
of drift from aerial application of
pesticides

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