

AMENDMENTS TO LB 329

(Amendments to E & R amendments, AM7053)

1 1. Insert the following new sections:
2 "Section 1. Section 2-15,122, Revised Statutes
3 Supplement, 2000, is amended to read:
4 2-15,122. There is hereby created the Natural Resources
5 ~~Enhancement~~ Water Quality Fund. The State Treasurer shall credit
6 to the fund for the uses and purposes of section 2-15,123 such
7 money as is specifically appropriated, ~~and~~ such funds, fees,
8 donations, gifts, services, or devises or bequests of real or
9 personal property received by the department from any source,
10 federal, state, public, or private, to be used by the department
11 for the purpose of funding programs listed in subsection (2) of
12 section 2-15,123, and such money credited under sections 2-2627,
13 2-2634, 2-2635, 2-2638, and 2-2641. The department shall allocate
14 money from the fund pursuant to section 2-15,123. The fund shall
15 be exempt from provisions relating to lapsing of appropriations.
16 The Legislature shall appropriate one hundred thousand dollars from
17 the fund for each fiscal year to the Pesticide Administrative Cash
18 Fund. It is the intent of the Legislature to study and review the
19 funding changes made by this legislative bill before January 1,
20 2005. Any money in the fund available for investment shall be
21 invested by the state investment officer pursuant to the Nebraska
22 Capital Expansion Act and the Nebraska State Funds Investment Act.
23 Sec. 2. Section 2-15,123, Revised Statutes Supplement,

1 2000, is amended to read:

2 2-15,123. (1) The Natural Resources ~~Enhancement Water~~
3 Quality Fund shall be allocated by contractual agreement with
4 natural resources districts for the purpose of funding programs
5 listed in subsection (2) of this section. A natural resource
6 district receiving an allocation shall provide a dollar-for-dollar
7 match of district funds. The initial allocations each fiscal year
8 shall be made by the department, based on needs of individual
9 natural resources districts relative to needs of other districts,
10 to districts which have qualifying programs. The director shall
11 have sole discretion to decide whether a district's program
12 qualifies for funding pursuant to this section. The unused
13 allocations shall be credited to the Nebraska Resources Development
14 Fund on or after March 1 of any year if the director determines
15 that one or more districts cannot reasonably be expected to use
16 their full allocation for that fiscal year. The commission shall
17 adopt and promulgate rules and regulations to administer the
18 Natural Resources ~~Enhancement Water~~ Quality Fund.

19 (2) The fund shall be allocated to natural resources
20 districts for programs related to water quality, including, but not
21 limited to:

- 22 (a) Natural resources districts' water quality programs;
23 (b) Natural resources districts' illegal water wells
24 decommissioning programs;
25 (c) Inspections by natural resources districts conducted
26 pursuant to the Nebraska Chemigation Act;
27 (d) Source water protection programs undertaken by

1 natural resources districts;

2 (e) Purchases of special equipment required by natural
3 resources districts in management areas and control areas formed
4 pursuant to the Nebraska Ground Water Management and Protection
5 Act; and

6 (f) Application of soil and water conservation practices.

7 Sec. 3. Section 2-2627, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 2-2627. (1) Except as otherwise provided in the
10 Pesticide Act, all money received from any source pursuant to the
11 act shall be remitted by the department to the State Treasurer for
12 credit to the Natural Resources Water Quality Fund.

13 (2) The Pesticide Administrative Cash Fund, ~~which fund~~ is
14 hereby created. The fund shall be used by the department to aid in
15 defraying the expenses of administering the act. Any money in the
16 fund available for investment shall be invested by the state
17 investment officer pursuant to the Nebraska Capital Expansion Act
18 and the Nebraska State Funds Investment Act.

19 Sec. 4. Section 2-2634, Revised Statutes Supplement,
20 2000, is amended to read:

21 2-2634. (1) As a condition to registration or renewal of
22 registration as required by sections 2-2628 to 2-2633, an applicant
23 shall pay to the department a fee of ~~ninety~~ one hundred seventy
24 dollars for each pesticide to be registered that is not classified
25 as a specialty pesticide by the department and one hundred thirty
26 dollars for each pesticide to be registered that is classified as a
27 specialty pesticide by the department, except that the fee may be

1 increased ~~or decreased~~ by the director after a public hearing is
2 held outlining the reason for any proposed change in the fee. In
3 no event shall such fee exceed ~~one hundred fifty~~ two hundred ten
4 dollars for each pesticide to be registered. All fees collected
5 shall be remitted to the State Treasurer for credit as follows:

6 (a) Thirty dollars of each such fee to the Noxious Weed
7 Cash Fund as provided in section 2-958;

8 (b) Sixty dollars of each such fee to the Buffer Strip
9 Incentive Fund as provided in section 2-5106; and

10 (c) The remainder, if any, to the ~~Pesticide~~
11 ~~Administrative Cash~~ Natural Resources Water Quality Fund.

12 (2) If a person fails to apply for renewal of
13 registration before January 1 of any year, such person, as a
14 condition to renewal, shall pay a late registration fee equal to
15 twenty-five percent of the fee due and owing per month, not to
16 exceed one hundred percent, for each product to be renewed in
17 addition to the renewal fee.

18 Sec. 5. Section 2-2635, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 2-2635. (1) Except as provided in subsection (2) of this
21 section, a person shall not distribute at wholesale or retail or
22 possess pesticides with an intent to distribute them without a
23 pesticide dealer license for each distribution location. Any
24 manufacturer, registrant, or distributor who has no pesticide
25 dealer outlet licensed within this state and who distributes such
26 pesticides directly into this state shall obtain a pesticide dealer
27 license for his, her, or its principal out-of-state location or

1 outlet.

2 (2) The requirements of subsection (1) of this section
3 shall not apply to:

4 (a) A commercial applicator or noncommercial applicator
5 licensed under sections 2-2636 to 2-2642 who uses restricted-use
6 pesticides only as an integral part of a pesticide application
7 service and does not distribute any unapplied pesticide;

8 (b) A federal, state, county, or municipal agency using
9 restricted-use pesticides only for its own program;

10 (c) Persons who sell only pesticide products in
11 containers holding fifty pounds or less by weight or one gallon or
12 less by volume and do not sell any restricted-use pesticides or
13 bulk pesticides; or

14 (d) Persons who sell only general-use specialty
15 pesticides.

16 (3) A pesticide dealer may distribute restricted-use
17 pesticides only to a certified applicator, a licensed pesticide
18 dealer, or, under rules and regulations adopted by the department,
19 a person who is not a certified applicator for application by a
20 certified applicator.

21 (4) A pesticide dealer license shall expire on December
22 31 of each year, unless it is suspended or revoked before that
23 date. Such license shall not be transferable to another person or
24 location and shall be prominently displayed to the public in the
25 pesticide dealer's place of business.

26 (5) If the pesticide dealer has had a license suspended
27 or revoked, or has otherwise had a history of violations of the

1 Pesticide Act, the department may require an additional
2 demonstration of dealer qualifications prior to issuance or renewal
3 of a license to such person.

4 (6) Application for an initial pesticide dealer license
5 shall be submitted to the department ~~within thirty days after~~
6 ~~January 1, 1994, or~~ prior to commencing business as a pesticide
7 dealer. Application for renewal of a pesticide dealer license
8 shall be submitted to the department by January 1 of each year.
9 All applications shall be accompanied by an annual license fee of
10 ~~fifty two hundred~~ dollars. The fee may be increased ~~or decreased~~
11 by the director after a public hearing is held outlining the reason
12 for any proposed change in the fee. In no event shall the fee
13 exceed ~~one~~ two hundred fifty dollars per license. Application
14 shall be on a form prescribed by the department and shall include
15 the full name of the person applying for such license. If such
16 applicant is an individual, the application shall include the
17 applicant's social security number. If such applicant is a
18 partnership, limited liability company, association, corporation,
19 or organized group of persons, the full name of each member of the
20 firm, partnership, or limited liability company or of the principal
21 officers of the association or corporation shall be given on the
22 application. Such application shall further state the address of
23 each outlet to be licensed, the principal business address of the
24 applicant, the name of the person domiciled in this state
25 authorized to receive and accept service of summons of legal
26 notices of all kinds for the applicant, and any other necessary
27 information prescribed by the department.

1 An applicant located outside this state shall file with
2 the department a written instrument designating a resident agent
3 for service of process in actions taken in the administration and
4 enforcement of the act. In lieu of designating a resident agent,
5 the applicant may designate the Secretary of State as the recipient
6 of service of process for the applicant in this state.

7 If an application for renewal of a pesticide dealer
8 license is not filed before January 1 of the year for which the
9 license is to be issued, an additional fee equal to twenty-five
10 percent of the fee due and owing per month, not to exceed one
11 hundred percent, shall be paid by the applicant before the license
12 may be issued.

13 An application for a duplicate pesticide dealer's license
14 shall be accompanied by a nonrefundable application fee of ~~ten~~
15 twenty dollars.

16 All fees collected shall be remitted to the State
17 Treasurer for credit as follows:

18 (a) Twenty-five dollars of each pesticide dealer license
19 or renewal fee to the Pesticide Administrative Cash Fund; and

20 (b) The remainder, if any, to the Natural Resources Water
21 Quality Fund.

22 (7) Each licensed pesticide dealer shall be responsible
23 for the acts of each person employed by him or her in the
24 solicitation and distribution of pesticides and all claims and
25 recommendations for use of pesticides. The dealer's license shall
26 be subject to denial, suspension, modification, or revocation after
27 a hearing for any violation of the act, whether committed by the

1 dealer or by the dealer's officer, agent, or employee.

2 (8) The department shall require each pesticide dealer to
3 maintain records of the dealer's purchases and distribution of all
4 restricted-use pesticides and may require such records to be kept
5 separate from other business records. The department may prescribe
6 by rules and regulations the information to be included in the
7 records. The dealer shall keep such records for a period of three
8 years and shall provide the department access to examine such
9 records and a copy of any record on request.

10 Sec. 6. Section 2-2638, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 2-2638. (1) An individual who applies restricted-use
13 pesticides to the land of another person for hire or compensation
14 shall apply to the department for a commercial applicator license
15 issued for the categories and subcategories in which the pesticide
16 application is to be made.

17 (2) Any person who applies lawn care or structural pest
18 control pesticides to the land of another person for hire or
19 compensation shall apply to the department for a commercial
20 applicator license, regardless of whether such business applies any
21 restricted-use pesticide.

22 (3) Application for an original or renewal commercial
23 applicator license shall be on forms prescribed by the department.
24 The application shall include information as required by the
25 director and be accompanied by a license fee of ~~ten~~ one hundred
26 dollars. If the applicant is an individual, the application shall
27 include the applicant's social security number. The fee may be

1 increased ~~or decreased~~ by the director after a public hearing is
2 held outlining the reasons for any proposed change. In no event
3 shall the fee exceed ~~twenty-five~~ one hundred fifty dollars per
4 license. All fees collected shall be remitted to the State
5 Treasurer for credit to the Natural Resources Water Quality Fund.

6 (4) The department may deny a commercial applicator
7 license if it has determined that:

8 (a) The applicant has had a license as a certified
9 applicator issued by this state or another state revoked within the
10 last two years;

11 (b) The applicant has been unable to satisfactorily
12 fulfill licensing requirements;

13 (c) The applicant for any other reason cannot be expected
14 to be able to fulfill the provisions of the Pesticide Act
15 applicable to the category for which application is made; or

16 (d) An applicant for an original commercial applicator
17 license has not passed an examination under sections 2-2637 and
18 2-2640.

19 (5) An individual to whom a commercial applicator license
20 is issued shall be a certified applicator authorized to use
21 restricted-use pesticides in the categories and subcategories in
22 which the individual is licensed.

23 (6) As a condition to issuance of a commercial applicator
24 license, an applicant located outside this state shall file with
25 the department a written instrument designating a resident agent
26 for service of process in actions taken in the administration and
27 enforcement of the act. In lieu of designating a resident agent,

1 the applicant may designate in writing the Secretary of State as
2 the recipient of service of process for the applicant in this
3 state.

4 (7) Any person who operates a business that applies
5 pesticides to the land of another person for hire or compensation
6 shall be responsible for the acts of each certified applicator
7 employed by him or her in the application of a pesticide. Such
8 person shall be subject to the same penalties and violations as the
9 applicator.

10 Sec. 7. Section 2-2641, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 2-2641. (1) A person shall be deemed to be a private
13 applicator if the person uses a restricted-use pesticide for the
14 purpose of producing an agricultural commodity:

15 (a) On property owned or rented by the person or person's
16 employer or under the person's general control; or

17 (b) On the property of another person if applied without
18 compensation other than the trading of personal services between
19 producers of agricultural commodities.

20 (2) An employee shall qualify as a private applicator
21 under subdivision (1)(a) of this section only if he or she provides
22 labor for the pesticide application but does not provide the
23 necessary equipment or pesticides.

24 (3) Every person applying for a license as a private
25 applicator shall (a) undertake a training session approved by the
26 department or (b) pass an examination showing that the person is
27 properly qualified to perform functions associated with pesticide

1 application to a degree directly related to the nature of the
2 activity and the associated responsibility. If the applicant is an
3 individual, the application shall include the applicant's social
4 security number.

5 (4) The department shall charge a license fee of thirty
6 dollars for each private applicator license. All fees collected
7 shall be remitted to the State Treasurer for credit to the Natural
8 Resources Water Quality Fund. The department shall not charge a
9 license fee for a private applicator license.

10 Sec. 10 Section 81-2,162.27, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-2,162.27. All money received under the Nebraska
13 Commercial Fertilizer and Soil Conditioner Act shall be remitted to
14 the State Treasurer for credit to the Fertilizers and Soil
15 Conditioners Administrative Fund, which fund is hereby created.
16 All money so received shall be appropriated to the uses of the
17 department for defraying the expenses of administering the act and
18 excess funds at the end of any fiscal year shall be transferred to
19 the Pesticide Administrative Cash Fund. Any unexpended balance in
20 such fund the Fertilizers and Soil Conditioners Administrative Fund
21 at the close of any biennium shall, when reappropriated, be
22 available for the uses and purposes of the fund for the succeeding
23 biennium. Any money in the fund available for investment shall be
24 invested by the state investment officer pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment
26 Act.".

27 2. On page 5, line 1, strike "section 15-202" and insert

AM1065
LB 329
DSH-03-20

AM1065
LB 329
DSH-03-20

- 1 "sections 2-2627, 2-2635, 2-2638, 2-2641, 15-202, and 81-2,162.27";
- 2 and in line 2 strike "section" and insert "2-15,122, 2-15,123,
- 3 2-2634, and".
- 4 3. Renumber the remaining sections accordingly.