



**Ninety-Ninth Legislature - Second Session - 2006**  
**Revised Committee Statement**  
**LB 874**

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**Hearing Date:** Jan 17  
**Committee On:** Agriculture

**Introducer(s):** (Kremer)  
**Title:** Change provisions of the Pesticide Act

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**Roll Call Vote – Final Committee Action:**

- X Advanced to General File
  - Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

7	Yes	Burling, Cunningham, Erdman, Fischer, Preister, Kremer, Wehrbein
	No	
	Present, not voting	
1	Absent	Chambers

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**Proponents:**  
Rick Leonard  
Rich Reiman  
Alice Licht  
Ed Woepfel  
Greg Ibach

**Representing:**  
Introducer  
Nebraska Department of Agriculture  
Nebraska Agri-business Association  
Nebraska Cooperative Council  
Nebraska Department of Agriculture

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 874 is brought at the request of the Department of Agriculture. The purpose of LB 874 is to maintain the Department’s authorities under the Pesticide Act current with the federal program and to clarify some enforcement requirements. The elements of LB 874 include the following:

- Makes a number of clarifications with respect to the distribution of fees collected pursuant to the Pesticide Act. These include specifically:
    - Revisions to §2-2651 [section 14] specify that civil or administrative fines shall be remitted to the state treasurer for distribution in accordance with Article VII, Section 5
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- of the Constitution rather than credited to the permanent school fund as currently prescribed. This is a Revisor's Office change that appears in several pieces of legislation to conform fine and penalty distribution with recent caselaw.
- Amends §2-2634 [Section 6] which currently sets out fees for registering pesticide products for sale and use in Nebraska and which provides for late registration charges. LB 874 amends this section by adding statutory explanation that the purpose of late registration charge is to recoup additional collection expense to distinguish such charges from fines and penalties which are remitted to the State Treasurer pursuant to §2-2651. The bill further specifies that late registration fees are to be remitted to the Pesticide Administrative Cash Fund. Distribution of the underlying product registration fee otherwise prescribed under current law is not affected.
  - Deletes obsolete text contained in §2-2627 [Section 4] which creates the Pesticide Administrative Cash Fund. The deleted provisions provided for a one-time transfer of funds to the Natural Resources Water Quality Fund and prescribe that all fees collected under the Act are to be remitted to the Natural Resources Water Quality Fund unless otherwise specified. A harmonizing deletion of reference to §2-2627 is made to §2-15,122 by Section 1 of the bill. Other than clarification that late registration fees are remitted to the Pesticide Administrative Cash Fund, all fees collected under the Pesticide Act for remission to the Natural Resources Water Quality Fund are specified in each of the several sections where fees are set forth and are not affected by the bill.
- Revises defined terms within §2-2624 [Section 2] as follows:
    - Updates definitional references to FIFRA and the Federal Food Drug and Cosmetic Acts to mean the acts as they existed on January 1, 2006.
    - Clarifies that the non-commercial category of applicators required to be licensed elsewhere in the Pesticide Act includes persons acting on behalf of a political subdivision for outdoor vector control. A harmonizing change is made within §2-2636 under section 7 of the bill. §2-2636 currently specifies licensure as either a commercial or non-commercial applicator when applying outdoor vector control as an employee or agent of a political subdivision.
    - The term "restricted use pesticide" is modified for clarity and accuracy. The current law includes pesticides even though an emergency use permit exemption has been granted to the state under Section 136p of the Federal Insecticide, Fungicide and Rodenticide Act. The current definition implies that product receives the exemption when it is more accurate that the State of Nebraska receives an exemption to allow use within the state of unregistered products or off-label use of a registered product under restricted conditions contained in the emergency use permit.
    - The definition of state limited use pesticides is revised to more accurately refer to products for which a pesticide management plan is in effect, rather than to pesticides subject to the state management plan.
  - Amends §2-2626 [Section 3] to add demonstrated adverse effects on humans and the environment as events that can trigger progressive restrictions on pesticide use under the state management plan or a pesticide management plan. Current law authorizes this only upon detection in ground or surface water.
  - Makes a number of clarifications regarding when licensure to apply restricted use pesticides is required.

- Amends §2-2636 [Section 7] to expressly authorize the Department of grant reciprocal licenses to be consistent with existing practice. Existing text authorizing waiver of license examination to applicators licensed in other states that apply substantially identical certification standards as required under the Nebraska Pesticide Act is moved within the statute.
  - Adds clarification within §2-2638 [section 8] and §2-2639 [Section 9] that persons applying pesticides shall hold appropriate license. Current law requires only that such persons apply to the Department for a license
  - Adds clarification within §2-2638 [section 8] §2-2641 [Section 10] that only persons who apply restricted use pesticides in Nebraska are required to be certified and licensed by Nebraska.
- Amends §2-2629 [Section 5] to authorize pesticide product registration information to be provided in electronic format acceptable to the Department.
  - Specifies that it is a violation of the Act to use an emergency-use pesticide contrary to the provisions of the permit.
  - Corrects internal references within §2-2643.03 [Section 11] and §2-2649 [Section 13].

**Explanation of amendments, if any:**

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**Senator Bob Kremer, Chairperson**