

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 69**

Introduced by Schilz, 47.

Read first time January 10, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 2-2624, 2-2626,  
2 2-2629, 2-2634, 2-2635, 2-2636, 2-2638, 2-2639, 2-2641,  
3 2-2642, 2-2646, 2-2646.01, and 2-2656, Reissue Revised  
4 Statutes of Nebraska; to change provisions relating to  
5 the Pesticide Act; to provide an operative date; and to  
6 repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 2-2624, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           2-2624 For purposes of the Pesticide Act:

4           (1) Active ingredient means:

5           (a) In the case of a pesticide other than a plant  
6 regulator, defoliant, or desiccant, an ingredient that prevents,  
7 destroys, repels, or mitigates a pest;

8           (b) In the case of a plant regulator, an ingredient that,  
9 through physiological action, accelerates or retards the rate of  
10 growth or rate of maturation or otherwise alters the behavior of an  
11 ornamental or crop plant or a product of an ornamental or crop plant;

12           (c) In the case of a defoliant, an ingredient that causes  
13 leaves or foliage to drop from a plant; or

14           (d) In the case of a desiccant, an ingredient that  
15 artificially accelerates the drying of plant tissue;

16           (2) Administrator means the Administrator of the United  
17 States Environmental Protection Agency;

18           (3) Adulterated means:

19           (a) That the strength or purity of a pesticide falls  
20 below the professed standard of quality as expressed on the labeling  
21 under which a pesticide is sold;

22           (b) That any substance is substituted wholly or in part  
23 for the pesticide; or

24           (c) That any valuable constituent of the pesticide has  
25 been wholly or in part abstracted;

1                   (4) Animal means a vertebrate or invertebrate species,  
2 including humans, other mammals, birds, fish, and shellfish;

3                   (5) Antidote means a practical treatment used in  
4 preventing or lessening ill effects from poisoning, including first  
5 aid;

6                   (6) Biological control agent means any living organism  
7 applied to or introduced into the environment that is intended to  
8 function as a pesticide against another organism;

9                   (7) Bulk means any distribution of a pesticide in a  
10 refillable container designed and constructed to accommodate the  
11 return and refill of greater than fifty-five gallons of liquid  
12 measure or one hundred pounds of dry net weight of the product;

13                   (8) Commercial applicator means any applicator required  
14 by the act to obtain a commercial applicator license;

15                   (9) Dealer means any manufacturer, registrant, or  
16 distributor who is required to be licensed as such under section  
17 2-2635;

18                   (10) Defoliant means a substance or mixture of substances  
19 intended to cause the leaves or foliage to drop from a plant, with or  
20 without causing abscission;

21                   (11) Department means the Department of Agriculture;

22                   (12) Desiccant means a substance or mixture of substances  
23 intended to artificially accelerate the drying of plant tissue;

24                   (13) Device means an instrument or contrivance, other  
25 than a firearm, that is used to trap, destroy, repel, or mitigate a

1 pest or other form of plant or animal life, other than a human or a  
2 bacteria, virus, or other microorganism on or in living humans or  
3 other living animals. Device does not include equipment intended to  
4 be used for the application of pesticides when sold separately from a  
5 pesticide;

6 (14) Director means the Director of Agriculture or his or  
7 her designee;

8 (15) Distribute means to offer for sale, hold for sale,  
9 sell, barter, exchange, supply, deliver, offer to deliver, ship, hold  
10 for shipment, deliver for shipment, or release for shipment;

11 (16) Environment includes water, air, land, plants,  
12 humans, and other animals living in or on water, air, or land and  
13 interrelationships which exist among these;

14 (17) Federal act means the Federal Insecticide,  
15 Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., and any  
16 regulations adopted and promulgated under it, as the act and  
17 regulations existed on January 1, ~~2006~~ 2013;

18 (18) Federal agency means the United States Environmental  
19 Protection Agency;

20 (19) Fungus means any non-chlorophyll-bearing  
21 thallophyte, including rust, smut, mildew, mold, yeast, and bacteria,  
22 but does not include non-chlorophyll-bearing thallophytes on or in  
23 living humans or other living animals or those on or in a processed  
24 food or beverage or pharmaceuticals;

25 (20) Inert ingredient means an ingredient that is not an

1 active ingredient;

2 (21) Ingredient statement means a statement which  
3 contains the name and percentage of each active ingredient and the  
4 total percentage of all inert ingredients in the pesticide. If the  
5 pesticide contains arsenic in any form, a statement of the percentage  
6 of total water-soluble arsenic calculated as elementary arsenic shall  
7 be included;

8 (22) Insect means any of the numerous small invertebrate  
9 animals generally having a segmented body and for the most part  
10 belong to the class Insecta, comprising six-legged, usually winged  
11 forms such as beetles, bugs, bees, and flies. Insect includes allied  
12 classes of arthropods, the members of which are wingless and usually  
13 have more than six legs, such as spiders, mites, ticks, centipedes,  
14 and wood lice;

15 (23) Label means the written, printed, or graphic matter  
16 on or attached to a pesticide or device or any of its containers or  
17 wrappers;

18 (24) Labeling means all labels and any other written,  
19 printed, or graphic matter (a) accompanying the pesticide or device  
20 at any time or (b) to which reference is made on a label or in  
21 literature accompanying or referring to a pesticide or device, except  
22 accurate, nonmisleading references made to a current official  
23 publication of a federal or state institution or agency authorized by  
24 law to conduct research in the field of pesticides;

25 (25) License holder means any person licensed under the

1 Pesticide Act;

2 (26) Licensed certified applicator means any person  
3 licensed and certified under the act as a commercial applicator,  
4 noncommercial applicator, or private applicator;

5 (27) Misbranded means that any pesticide meets one or  
6 more of the following criteria:

7 (a) Its labeling bears any statement, design, or graphic  
8 representation relative to the pesticide or to its ingredients which  
9 is false or misleading in any particular;

10 (b) It is contained in a package or other container or  
11 wrapping which does not conform to the standards established by the  
12 administrator pursuant to ~~section 7~~ U.S.C. 136w(c) of the federal  
13 act;

14 (c) It is an imitation of or distributed under the name  
15 of another pesticide;

16 (d) Its label does not bear the registration number  
17 assigned under ~~section 7~~ U.S.C. 136e of the federal act to each  
18 establishment in which it was produced;

19 (e) Any word, statement, or other information required by  
20 or under authority of the Pesticide Act to appear on the label or  
21 labeling is not prominently placed thereon with such conspicuousness,  
22 as compared with other words, statements, designs, or graphic matter  
23 in the labeling, and in such terms as to render it likely to be read  
24 and understood by the ordinary individual under customary conditions  
25 of purchase and use;

1           (f) The labeling accompanying it does not contain  
2 directions for use which are necessary for effecting the purpose for  
3 which the product is intended and if complied with, together with any  
4 requirements imposed under ~~section 7 U.S.C.~~ 136a(d) of the federal  
5 act, are adequate to protect health and the environment;

6           (g) The label does not contain a warning or caution  
7 statement which may be necessary and if complied with, together with  
8 any requirements imposed under the Pesticide Act or ~~section 7 U.S.C.~~  
9 136a(d) of the federal act, is adequate to protect health and the  
10 environment;

11           (h) In the case of a pesticide not registered in  
12 accordance with sections 2-2628 and 2-2629 and intended for export,  
13 the label does not contain, in words prominently placed thereon with  
14 such conspicuousness, as compared with other words, statements,  
15 designs, or graphic matter in the labeling, as to render it likely to  
16 be noted by the ordinary individual under customary conditions of  
17 purchase and use, the words Not Registered for Use in the United  
18 States of America;

19           (i) The label does not bear an ingredient statement on  
20 that part of the immediate container, and on the outside container or  
21 wrapper of the retail package, if any, through which the ingredient  
22 statement on the immediate container cannot be clearly read, which is  
23 presented or displayed under customary conditions of purchase, except  
24 that a pesticide is not misbranded under this subdivision if:

25           (i) The size or form of the immediate container or the

1 outside container or wrapper of the retail package makes it  
2 impracticable to place the ingredient statement on the part which is  
3 presented or displayed under customary conditions of purchase; and

4 (ii) The ingredient statement appears prominently on  
5 another part of the immediate container or outside container or  
6 wrapper, permitted by the administrator;

7 (j) The labeling does not contain a statement of the use  
8 classification under which the product is registered;

9 (k) There is not affixed to its container, and to the  
10 outside container or wrapper of the retail package, if any, through  
11 which the required information on the immediate container cannot be  
12 clearly read, a label bearing:

13 (i) The name and address of the producer, registrant, or  
14 person for whom produced;

15 (ii) The name, brand, or trademark under which the  
16 pesticide is sold;

17 (iii) The net weight or measure of the content, except  
18 that the administrator may permit reasonable variations; and

19 (iv) When required by regulations of the administrator to  
20 effectuate the purposes of the federal act, the registration number  
21 assigned to the pesticide under such act and the use classification;  
22 or

23 (l) The pesticide contains any substance or substances in  
24 quantities highly toxic to humans, unless the label bears, in  
25 addition to any other matter required by the Pesticide Act:

1 (i) The skull and crossbones;

2 (ii) The word poison prominently in red on a background  
3 of distinctly contrasting color; and

4 (iii) A statement of a practical first-aid or other  
5 treatment in case of poisoning by the pesticide;

6 (28) Nematode means an invertebrate animal of the phylum  
7 Nemathelminthes and class Nematode, an unsegmented roundworm with an  
8 elongated, fusiform, or sac-like body covered with cuticle,  
9 inhabiting soil, water, plants, or plant parts;

10 (29) Noncommercial applicator means (a) any applicator  
11 who is not a commercial applicator and uses restricted-use pesticides  
12 only on property owned or controlled by his or her employer or for a  
13 federal entity or state agency or a political subdivision of the  
14 state or (b) any employee or other person acting on behalf of a  
15 political subdivision of the state who is not a commercial applicator  
16 who uses pesticides for outdoor vector control;

17 (30) Person means any individual, partnership, limited  
18 liability company, association, corporation, or organized group of  
19 persons, whether incorporated or not;

20 (31) Pest means:

21 (a) Any insect, snail, slug, rodent, bird, nematode,  
22 fungus, weed, or other form of terrestrial or aquatic plant or animal  
23 life, excluding humans; or

24 (b) Any virus, bacteria, or other microorganism, other  
25 than a virus, bacteria, or microorganism in or on living humans or

1 other living animals, as defined by the department;

2 (32) Pesticide means a substance or mixture of substances  
3 intended to prevent, destroy, repel, or mitigate any pest or any  
4 substance or mixture of substances intended for use as a plant  
5 regulator, defoliant, or desiccant, including any biological control  
6 agent. ~~Pesticide includes specialty pesticides.~~ Pesticide does not  
7 include any article that is a new animal drug within the meaning of  
8 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321(v), as the  
9 section existed on January 1, ~~2006,~~2013, that has been determined by  
10 the Secretary of Health and Human Services to be a new animal drug by  
11 regulation establishing conditions of use for the article, or that is  
12 an animal feed within the meaning of the Federal Food, Drug, and  
13 Cosmetic Act, 21 U.S.C. 321(w), as the section existed on January 1,  
14 ~~2006,~~2013, bearing or containing a new animal drug;

15 (33) Pesticide management plan means a management plan  
16 for a specific, identified pesticide to implement a strategy to  
17 prevent, monitor, evaluate, and mitigate (a) any occurrence of the  
18 pesticide or pesticide breakdown products in ground water and surface  
19 water in the state or (b) any other unreasonable adverse effect of  
20 the pesticide on humans or the environment;

21 (34) Plant regulator means a substance or mixture of  
22 substances intended through physiological action to accelerate or  
23 retard the rate of growth or rate of maturation or otherwise to alter  
24 the behavior of an ornamental or crop plant or the product of an  
25 ornamental or crop plant but does not include a substance to the

1 extent that it is intended as a plant nutrient, trace element,  
2 nutritional chemical, plant inoculant, or soil amendment;

3 (35) Pollute means to alter the physical, chemical, or  
4 biological quality of or to contaminate water in the state, which  
5 alteration or contamination renders the water harmful, detrimental,  
6 or injurious to humans, the environment, or the public health,  
7 safety, or welfare;

8 (36) Private applicator means an applicator who is not a  
9 commercial applicator or a noncommercial applicator and uses or  
10 supervises the use of any pesticide which is classified for  
11 restricted use for purposes of producing any agricultural commodity  
12 on property owned or rented by him or her or his or her employer or,  
13 if applied without compensation other than trading of personal  
14 services between producers of agricultural commodities, on the  
15 property of another person;

16 (37) Property means any land or water area, including  
17 airspace, and any plant, animal, structure, building, contrivance,  
18 commodity, or machinery, whether fixed or mobile, appurtenant to or  
19 situated on a land or water area or airspace, including any vehicle  
20 used for transportation;

21 (38) Restricted-use pesticide means a pesticide  
22 classified as a restricted-use pesticide by the federal agency, a  
23 state-limited-use pesticide, or any pesticide for which an exemption  
24 under section 136p of the federal act has been granted;

25 ~~(39) Specialty pesticide means (a) a disinfectant,~~

1 ~~sanitizer, germicide, or biocide or (b) a pesticide labeled solely~~  
2 ~~for use directly on humans or pets or in, on, or around areas~~  
3 ~~associated with the household or home life, including lawn and garden~~  
4 ~~and ornamental uses, but does not include turf as determined by the~~  
5 ~~director;~~

6 ~~(40)~~ (39) State management plan means a generic plan  
7 developed by the department to implement a strategy to prevent,  
8 monitor, evaluate, and mitigate any occurrence of pesticides in  
9 ground water and surface water in the state and any specific plans  
10 developed when an occurrence has been detected;

11 ~~(41)~~ (40) State pesticide plan means the plan developed  
12 by the department to enter into a cooperative agreement with the  
13 federal agency to assume the responsibility for the primary  
14 enforcement of pesticide use and the training and licensing of  
15 certified applicators;

16 ~~(42)~~ (41) State-limited-use pesticide means any pesticide  
17 included on a list of state-limited-use pesticides by the department  
18 pursuant to a pesticide management plan;

19 ~~(43)~~ (42) Unreasonable adverse effect on humans or the  
20 environment means any unreasonable risk to humans or the environment  
21 taking into account the severity and longevity of adverse effects of  
22 use of the pesticide and also taking into account the economic,  
23 social, and environmental costs and benefits of the use of the  
24 pesticide. The costs and benefits of a public health pesticide shall  
25 also weigh any risks of the use of the pesticide against the health

1 risks to be mitigated or controlled by the use of the pesticide;

2 ~~(44)~~—(43) Vector means any organism capable of  
3 transmitting the causative agent of human disease or capable of  
4 producing human discomfort or injury, including mosquitoes, flies,  
5 fleas, cockroaches, ticks, mites, other insects, mice, and rats; and

6 ~~(45)~~—(44) Weed means any plant that grows where not  
7 wanted.

8 Sec. 2. Section 2-2626, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 2-2626 The department shall have the following powers,  
11 functions, and duties:

12 (1) To administer, implement, and enforce the Pesticide  
13 Act and serve as the lead state agency for the regulation of  
14 pesticides. The department shall involve the natural resources  
15 districts and other state agencies, including the Department of  
16 Environmental Quality, the Department of Natural Resources, or the  
17 Department of Health and Human Services, in matters relating to water  
18 quality. Nothing in the act shall be interpreted in any way to affect  
19 the powers of any other state agency or of any natural resources  
20 district to regulate for ground water quality or surface water  
21 quality as otherwise provided by law;

22 (2) To be responsible for the development and  
23 implementation of a state management plan and pesticide management  
24 plans. The Department of Environmental Quality shall be responsible  
25 for the adoption of standards for pesticides in surface water and

1 ground water, and the Department of Health and Human Services shall  
2 be responsible for the adoption of standards for pesticides in  
3 drinking water. These standards shall be established as action levels  
4 in the state management plan and pesticide management plans at which  
5 prevention and mitigation measures are implemented. Such action  
6 levels may be set at or below the maximum contaminant level set for  
7 any product as set by the federal agency under the federal Safe  
8 Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on  
9 January 1, ~~2006.~~2013. The Department of Agriculture shall cooperate  
10 with and use existing expertise in other state agencies when  
11 developing the state management plan and pesticide management plans  
12 and shall not hire a hydrologist within the department for such  
13 purpose;

14 (3) After notice and public hearing, to adopt and  
15 promulgate rules and regulations providing lists of state-limited-use  
16 pesticides for the entire state or for a designated area within the  
17 state, subject to the following:

18 (a) A pesticide shall be included on a list of state-  
19 limited-use pesticides if:

20 (i) The Department of Agriculture determines that the  
21 pesticide, when used in accordance with its directions for use,  
22 warnings, and cautions and for uses for which it is registered, may  
23 without additional regulatory restrictions cause unreasonable adverse  
24 effects on humans or the environment, including injury to the  
25 applicator or other persons because of acute dermal or inhalation

1 toxicity of the pesticides;

2 (ii) The water quality standards set by the Department of  
3 Environmental Quality or the Department of Health and Human Services  
4 pursuant to this section are exceeded; or

5 (iii) The Department of Agriculture determines that the  
6 pesticide requires additional restrictions to meet the requirements  
7 of the Pesticide Act, the federal act, or any plan adopted under the  
8 Pesticide Act or the federal act;

9 (b) The Department of Agriculture may regulate the time  
10 and conditions of use of a state-limited-use pesticide and may  
11 require that it be purchased or possessed only:

12 (i) With permission of the department;

13 (ii) Under direct supervision of the department or its  
14 designee in certain areas and under certain conditions;

15 (iii) In specified quantities and concentrations or at  
16 specified times; or

17 (iv) According to such other restrictions as the  
18 department may set by regulation;

19 (c) The Department of Agriculture may require a person  
20 authorized to distribute or use a state-limited-use pesticide to  
21 maintain records of the person's distribution or use and may require  
22 that the records be kept separate from other business records;

23 (d) The state management plan and pesticide management  
24 plans shall be coordinated with the Department of Agriculture and  
25 other state agency plans and with other state agencies and with

1 natural resources districts;

2 (e) The state management plan and pesticide management  
3 plans may impose progressively more rigorous pesticide management  
4 practices as pesticides are detected in ground water or surface water  
5 at increasing fractions of the standards adopted by the Department of  
6 Environmental Quality or the Department of Health and Human Services;  
7 and

8 (f) A pesticide management plan may impose progressively  
9 more rigorous pesticide management practices to address any  
10 unreasonable adverse effect of pesticides on humans or the  
11 environment. When appropriate, a pesticide management plan may  
12 establish action levels for imposition of such progressively more  
13 rigorous management practices based upon measurable indicators of the  
14 adverse effect on humans or the environment;

15 (4) To adopt and promulgate such rules and regulations as  
16 are necessary for the enforcement and administration of the Pesticide  
17 Act. The regulations shall include, but not be limited to,  
18 regulations providing for:

19 (a) The collection of samples, examination of records,  
20 and reporting of information by persons subject to the act;

21 (b) The safe handling, transportation, storage, display,  
22 distribution, use, and disposal of pesticides and their containers;

23 (c) Labeling requirements of all pesticides required to  
24 be registered under provisions of the act, except that such  
25 regulations shall not impose any requirements for federally

1 registered labels contrary to those required pursuant to the federal  
2 act;

3 (d) Classes of devices which shall be subject to the  
4 Pesticide Act;

5 (e) Reporting and record-keeping requirements for persons  
6 distributing or using pesticide products made available under ~~section~~  
7 ~~136p-7~~ U.S.C. 136i-1 of the federal act and for persons required to  
8 keep records under the Pesticide Act;

9 (f) Methods to be used in the application of pesticides  
10 when the Department of Agriculture finds that such regulations are  
11 necessary to carry out the purpose and intent of the Pesticide Act.  
12 Such regulations may include methods to be used in the application of  
13 a restricted-use pesticide, may relate to the time, place, manner,  
14 methods, materials, amounts, and concentrations in connection with  
15 the use of the pesticide, may restrict or prohibit use of the  
16 pesticides in designated areas during specified periods of time, and  
17 may provide specific examples and technical interpretations of  
18 subdivision (4) of section 2-2646. The regulations shall encompass  
19 all reasonable factors which the department deems necessary to  
20 prevent damage or injury by drift or misapplication to (i) plants,  
21 including forage plants, or adjacent or nearby property, (ii)  
22 wildlife in the adjoining or nearby areas, (iii) fish and other  
23 aquatic life in waters in reasonable proximity to the area to be  
24 treated, (iv) surface water or ground water, and (v) humans, animals,  
25 or beneficial insects. In adopting and promulgating such regulations,

1 the department shall give consideration to pertinent research  
2 findings and recommendations of other agencies of the state, the  
3 federal government, or other reliable sources. The department may, by  
4 regulation, require that notice of a proposed use of a pesticide be  
5 given to landowners whose property is adjacent to the property to be  
6 treated or in the immediate vicinity thereof if the department finds  
7 that such notice is necessary to carry out the purpose of the act;

8 (g) State-limited-use pesticides for the state or for  
9 designated areas in the state;

10 (h) Establishment of the amount of any fee or fine as  
11 directed by the act;

12 (i) Establishment of the components of any state  
13 management plan or pesticide management plan;

14 (j) Establishment of categories for licensed pesticide  
15 applicators in addition to those established in 40 C.F.R. 171, as the  
16 regulation existed on January 1, ~~2006~~; 2013; and

17 (k) Establishment of a process for the issuance of  
18 permits for emergency-use pesticides made available under ~~section 7~~  
19 U.S.C. 136p of the federal act;

20 (5) To enter any public or private premises at any  
21 reasonable time to:

22 (a) Inspect and sample any equipment authorized or  
23 required to be inspected under the Pesticide Act or to inspect the  
24 premises on which the equipment is kept or stored;

25 (b) Inspect or sample any area exposed or reported to be

1 exposed to a pesticide or where a pesticide use has occurred;

2 (c) Inspect and sample any area where a pesticide is  
3 disposed of or stored;

4 (d) Observe the use and application of and sample any  
5 pesticide;

6 (e) Inspect and copy any records relating to the  
7 distribution or use of any pesticide or the issuance of any license,  
8 permit, or registration under the act; or

9 (f) Inspect, examine, or take samples from any  
10 application equipment, building, or place owned, controlled, or  
11 operated by any person engaging in an activity regulated by the act  
12 if, from probable cause, it appears that the application equipment,  
13 building, or place contains a pesticide;

14 (6) To sample, inspect, make analysis of, and test any  
15 pesticide found within this state;

16 (7) To issue and enforce a written or printed order to  
17 stop the sale, removal, or use of a pesticide if the Department of  
18 Agriculture has reason to believe that the pesticide is in violation  
19 of any provision of the act. The department shall present the order  
20 to the owner or custodian of the pesticide. The person who receives  
21 the order shall not distribute, remove, or use the pesticide until  
22 the department determines that the pesticide is in compliance with  
23 the act. This subdivision shall not limit the right of the department  
24 to proceed as authorized by any other provision of the act;

25 (8)(a) To sue in the name of the director to enjoin any

1 violation of the act. Venue for such action shall be in the county in  
2 which the alleged violation occurred, is occurring, or is threatening  
3 to occur; and

4 (b) To request the county attorney or the Attorney  
5 General to bring suit to enjoin a violation or threatened violation  
6 of the act;

7 (9) To impose or levy an administrative fine of not more  
8 than five thousand dollars for each violation on any person who has  
9 violated ~~the provisions, requirements, conditions, limitations, or~~  
10 ~~duties~~ any provision, requirement, condition, limitation, or duty  
11 imposed by the act or rules and regulations adopted and promulgated  
12 pursuant to the act. A violation means ~~any separate activity or day~~  
13 ~~in which an activity takes place;~~ each action which violates any  
14 separate or distinct provision, requirement, condition, limitation,  
15 or duty imposed by the act or rules and regulations adopted and  
16 promulgated pursuant to the act;

17 (10) To cause a violation warning letter to be served  
18 upon the alleged violator or violators pursuant to the act;

19 (11) To take reasonable measures necessary to ensure that  
20 to assess and collect all fees, and fines, and penalties prescribed  
21 by the act and the rules or regulations adopted under the act; ~~are~~  
22 ~~assessed and collected;~~

23 (12) To access, inspect, and copy all books, papers,  
24 records, bills of lading, invoices, and other information relating to  
25 the use, manufacture, repackaging, and distribution of pesticides

1 necessary for the enforcement of the act;

2 (13) To seize, for use as evidence, without formal  
3 warrant if probable cause exists, any pesticide which is in violation  
4 of the act or is not approved by the Department of Agriculture or  
5 which is found to be used or distributed in the violation of the act  
6 or the rules and regulations adopted and promulgated under it;

7 (14) To declare as a pest any form of plant or animal  
8 life, other than humans and other than bacteria, viruses, and other  
9 microorganisms on or in living humans or other living animals, which  
10 is injurious to health or the environment;

11 (15) To adopt classifications of restricted-use  
12 pesticides as determined by the federal agency under the federal act.  
13 In addition to the restricted-use pesticides classified by the  
14 administrator, the Department of Agriculture may also determine  
15 state-limited-use pesticides for the state or for designated areas  
16 within the state as provided in subdivision (3) of this section;

17 (16) To receive grants-in-aid from any federal entity,  
18 and to enter into cooperative agreements with any federal entity, any  
19 agency of this state, any subdivision of this state, any agency of  
20 another state, any Indian tribe, or any private person for the  
21 purpose of obtaining consistency with or assistance in the  
22 implementation of the Pesticide Act. The Department of Agriculture  
23 may reimburse any such entity from the Pesticide Administrative Cash  
24 Fund for the work performed under the cooperative agreement. The  
25 department may delegate its administrative responsibilities under the

1 act to cities of the metropolitan and primary classes if it  
2 reasonably believes that such cities can perform the responsibilities  
3 in a manner consistent with the act and the rules and regulations  
4 adopted and promulgated under it;

5 (17) To prepare and adopt such plans as are necessary to  
6 implement any requirements of the federal agency under the federal  
7 act;

8 (18) To request the assistance of the Attorney General or  
9 the county attorney in the county in which a violation of the  
10 Pesticide Act has occurred with the prosecution or enforcement of any  
11 violation of the act;

12 (19) To enter into a settlement agreement with any person  
13 regarding the disposition of any license, permit, registration, or  
14 administrative fine;

15 (20) To issue a cease and desist order pursuant to  
16 section 2-2649;

17 (21) To deny an application or cancel, suspend, or modify  
18 the registration of a pesticide pursuant to section 2-2632;

19 (22) To issue, cancel, suspend, modify, or place on  
20 probation any license or permit issued pursuant to the act; and

21 (23) To make such reports to the federal agency as are  
22 required under the federal act.

23 Sec. 3. Section 2-2629, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 2-2629 (1) The application for registration of a

1 pesticide shall include:

2 (a) The name and address of the applicant and the name  
3 and address of the person whose name shall appear on the pesticide  
4 label, if not the applicant's;

5 (b) The name of the pesticide;

6 (c) Two complete copies of all labeling to accompany the  
7 pesticide and a statement of all claims to be made for it, including  
8 the directions for use;

9 (d) The use classification, whether for restricted or  
10 general use, as provided by the federal act;

11 (e) The use classification proposed by the applicant,  
12 ~~including whether the product is a specialty pesticide,~~ if the  
13 pesticide is not required by federal law to be registered under a use  
14 classification;

15 (f) A designation of a resident agent for service of  
16 process in actions taken in the administration and enforcement of the  
17 Pesticide Act. In lieu of designating a resident agent, the applicant  
18 may designate in writing the Secretary of State as the recipient of  
19 service of process for the applicant in this state; and

20 (g) Other information required by the department for  
21 determining the eligibility for registration.

22 (2) Application information may be provided in electronic  
23 format acceptable to the department.

24 (3) The department may require the applicant to submit  
25 the complete formula for a pesticide, including active and inert

1 ingredients, as a prerequisite to registration.

2 (4) The department may require additional information  
3 including a full description of the tests conducted and the results  
4 of the tests on which claims are based, either before or after  
5 approving the registration of a pesticide. The department may request  
6 that additional tests or field monitoring be conducted in Nebraska  
7 ecosystems, or reasonably similar ecosystems, in order to determine  
8 the validity of assumptions used to register pesticides under the  
9 federal act.

10 (5) Information collected under subsection (3) or (4) of  
11 this section shall not be public records. The department shall not  
12 reveal such information to other than representatives of the  
13 department, the Attorney General or other legal representative of the  
14 department when relevant in any judicial proceeding, or any other  
15 officials of another Nebraska agency, the federal government, or  
16 other states who are similarly prohibited from revealing this  
17 information.

18 Sec. 4. Section 2-2634, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 2-2634 (1) As a condition to registration or renewal of  
21 registration as required by sections 2-2628 to 2-2633, an applicant  
22 shall pay to the department a fee of ~~two hundred~~ one hundred sixty  
23 dollars for each pesticide to be registered, ~~that is not classified~~  
24 ~~as a specialty pesticide by the department and one hundred thirty-~~  
25 ~~five dollars for each pesticide to be registered that is classified~~

1 ~~as a specialty pesticide by the department, except that the fee may~~  
2 ~~be increased or decreased by the director after a public hearing is~~  
3 ~~held outlining the reason for any proposed change in the fee. rules~~  
4 ~~and regulations adopted and promulgated pursuant to the Pesticide~~  
5 ~~Act.~~ In no event shall such fee exceed two hundred ten dollars for  
6 each pesticide to be registered.

7 (2) All fees collected under subsection (1) of this  
8 section shall be remitted to the State Treasurer for credit as  
9 follows:

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

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

14 (c) ~~The remainder~~ Fifty-five dollars of ~~each~~ such fee ~~for~~  
15 ~~a pesticide that is not classified as a specialty pesticide, if any,~~  
16 to the Natural Resources Water Quality Fund; ~~,~~ and

17 ~~the~~ (d) ~~The~~ remainder of ~~each~~ such fee ~~for a pesticide~~  
18 ~~that is classified as a specialty pesticide, if any,~~ to the Pesticide  
19 Administrative Cash Fund.

20 ~~(2)~~ (3) If a person fails to apply for renewal of  
21 registration before January 1 of any year, such person, as a  
22 condition to renewal, shall pay a late registration fee equal to  
23 twenty-five percent of the fee due and owing per month, not to exceed  
24 one hundred percent, for each product to be renewed in addition to  
25 the renewal fee. The purpose of the late registration fee is to cover

1 the administrative costs associated with collecting fees, and all  
2 money collected as a late registration fee shall be remitted to the  
3 State Treasurer for credit to the Pesticide Administrative Cash Fund.

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

6 2-2635 (1) Except as provided in subsection (2) of this  
7 section, a person shall not distribute at wholesale or retail or  
8 possess pesticides with an intent to distribute them without a  
9 pesticide dealer license for each distribution location. Any  
10 manufacturer, registrant, or distributor who has no pesticide dealer  
11 outlet licensed within this state and who distributes such pesticides  
12 directly into this state shall obtain a pesticide dealer license for  
13 his, her, or its principal out-of-state location or outlet.

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

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

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

22 (c) Persons who sell only pesticide products in  
23 containers holding fifty pounds or less by weight or one gallon or  
24 less by volume and do not sell any restricted-use pesticides or bulk  
25 pesticides. ~~or~~

1                   ~~(d) Persons who sell only general use specialty~~  
2 ~~pesticides.~~

3                   (3) A pesticide dealer may distribute restricted-use  
4 pesticides only to:

5                   (a) A licensed pesticide dealer;

6                   (b) A licensed certified applicator issued a license with  
7 the appropriate category for using the restricted-use pesticide being  
8 distributed;

9                   (c) An applicator issued a license by another state with  
10 the appropriate category for using the restricted-use pesticide being  
11 distributed;

12                   (d) A noncertified applicator authorized by the Pesticide  
13 Act to apply restricted-use pesticides if the licensed certified  
14 applicator supervising the noncertified applicator is issued a  
15 license with the appropriate category for using the restricted-use  
16 pesticide being distributed; or

17                   (e) Any other person if the pesticide dealer maintains  
18 records set out in rules and regulations adopted and promulgated  
19 pursuant to the act requiring the person to verify in writing that:

20                   (i) The restricted-use pesticide will be delivered to an  
21 applicator described in subdivision (3)(b), (c), or (d) of this  
22 section; and

23                   (ii) The applicator receiving the restricted-use  
24 pesticide acknowledges and agrees to the distribution.

25                   (4) A pesticide dealer license shall expire on December

1 31 of each year, unless it is suspended or revoked before that date.  
2 Such license shall not be transferable to another person or location  
3 and shall be prominently displayed to the public in the pesticide  
4 dealer's place of business.

5 (5) If the pesticide dealer has had a license suspended  
6 or revoked, or has otherwise had a history of violations of the  
7 Pesticide Act, the department may require an additional demonstration  
8 of dealer qualifications prior to issuance or renewal of a license to  
9 such person.

10 (6) Application for an initial pesticide dealer license  
11 shall be submitted to the department prior to commencing business as  
12 a pesticide dealer. Application for renewal of a pesticide dealer  
13 license shall be submitted to the department by January 1 of each  
14 year. All applications shall be accompanied by an annual license fee  
15 of twenty-five dollars. The fee may be increased by the director by  
16 rules and regulations adopted and promulgated pursuant to the act.  
17 The fee shall not exceed one hundred dollars per license. Application  
18 shall be on a form prescribed by the department and shall include the  
19 full name of the person applying for such license. ~~If such applicant~~  
20 ~~is an individual, the application shall include the applicant's~~  
21 ~~social security number.~~ If such applicant is a partnership, limited  
22 liability company, association, corporation, or organized group of  
23 persons, the full name of each member of the firm, partnership, or  
24 limited liability company or of the principal officers of the  
25 association or corporation shall be given on the application. Such

1 application shall further state the address of each outlet to be  
2 licensed, the principal business address of the applicant, the name  
3 of the person domiciled in this state authorized to receive and  
4 accept service of summons of legal notices of all kinds for the  
5 applicant, and any other necessary information prescribed by the  
6 department.

7           An applicant located outside this state shall file with  
8 the department a written designation of a resident agent for service  
9 of process in actions taken in the administration and enforcement of  
10 the act. In lieu of designating a resident agent, the applicant may  
11 designate the Secretary of State as the recipient of service of  
12 process for the applicant in this state.

13           If an application for renewal of a pesticide dealer  
14 license is not filed before January 1 of the year for which the  
15 license is to be issued, an additional fee equal to twenty-five  
16 percent of the fee due and owing per month, not to exceed one hundred  
17 percent, shall be paid by the applicant before the license may be  
18 issued. The purpose of the additional fee is to cover the  
19 administrative costs associated with collecting fees.

20           An application for a duplicate pesticide dealer's license  
21 shall be accompanied by a nonrefundable application fee of ten  
22 dollars.

23           All fees collected pursuant to this subsection shall be  
24 remitted to the State Treasurer for credit to the Pesticide  
25 Administrative Cash Fund.

1           (7) Each licensed pesticide dealer shall be responsible  
2 for the acts of each person employed by him or her in the  
3 solicitation and distribution of pesticides and all claims and  
4 recommendations for use of pesticides. The dealer's license shall be  
5 subject to denial, suspension, modification, or revocation after a  
6 hearing for any violation of the act, whether committed by the dealer  
7 or by the dealer's officer, agent, or employee.

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

16           Sec. 6. Section 2-2636, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           2-2636 (1) The department shall license pesticide  
19 applicators involved in the categories established in 40 C.F.R. 171,  
20 as the regulation existed on January 1, ~~2006~~, 2013, and any other  
21 categories established pursuant to rules and regulations necessary to  
22 meet the requirements of the state. The department may issue a  
23 reciprocal license to a pesticide applicator licensed or certified in  
24 another state or by a federal agency. Residents of the State of  
25 Nebraska are not eligible for reciprocal certification. The

1 department may waive part or all of any license certification  
2 examination requirements for a reciprocal license if the other state  
3 or federal agency that licensed or certified the pesticide applicator  
4 has substantially the same certification examination standards and  
5 procedural requirements as required under the Pesticide Act.

6 (2) A person shall not use a restricted-use pesticide  
7 unless the person is:

8 (a) Licensed as a commercial or noncommercial applicator  
9 and authorized by the license to use the restricted-use pesticide in  
10 the category covering the proposed pesticide use;

11 (b) Licensed as a private applicator; or

12 (c) At least sixteen years of age and working under the  
13 direct supervision of a licensed certified applicator pursuant to  
14 subsection (5) of section 2-2642.

15 (3) A person shall not use lawn care or structural pest  
16 control pesticides on the property of another person for hire or  
17 compensation unless the person is:

18 (a) Licensed as a commercial applicator; or

19 (b) At least sixteen years of age and working under the  
20 direct supervision of a licensed certified applicator pursuant to  
21 subsection (5) of section 2-2642.

22 (4) An employee or other person acting on behalf of any  
23 political subdivision of the state shall not use pesticides for  
24 outdoor vector control unless the applicator is:

25 (a) Licensed as a commercial applicator or a

1 noncommercial applicator; or

2 (b) At least sixteen years of age and working under the  
3 direct supervision of a licensed certified applicator pursuant to  
4 subsection (5) of section 2-2642.

5 (5) In order to receive a commercial, noncommercial, or  
6 private applicator license, a person shall be at least sixteen years  
7 of age.

8 Sec. 7. Section 2-2638, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 2-2638 (1) An individual who uses restricted-use  
11 pesticides on the property of another person in the State of Nebraska  
12 for hire or compensation shall meet all certification requirements of  
13 the Pesticide Act and shall be a commercial applicator license holder  
14 of a license issued for the categories and subcategories in which the  
15 pesticide use is to be made.

16 (2) Any person who uses lawn care or structural pest  
17 control pesticides on the property of another person in the State of  
18 Nebraska for hire or compensation shall be a commercial applicator  
19 license holder, regardless of whether such person uses any  
20 restricted-use pesticide.

21 (3) Application for an original or renewal commercial  
22 applicator license shall be made to the department on forms  
23 prescribed by the department. The application shall include  
24 information as required by the director and be accompanied by a  
25 license fee of ninety dollars. If the applicant is an individual, the

1 application shall include the applicant's ~~social security number and~~  
2 date of birth. The fee may be increased by the director by rules and  
3 regulations adopted and promulgated pursuant to the act. The fee  
4 shall not exceed one hundred fifty dollars per license. All fees  
5 collected shall be remitted to the State Treasurer for credit to the  
6 Natural Resources Water Quality Fund.

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

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

12 (b) The applicant has been unable to satisfactorily  
13 fulfill certification or licensing requirements;

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

17 (d) An applicant for an original commercial applicator  
18 license has not passed an examination under sections 2-2637 and  
19 2-2640.

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

24 (6) As a condition to issuance of a commercial applicator  
25 license, an applicant located outside this state shall file with the

1 department a written designation of a resident agent for service of  
2 process in actions taken in the administration and enforcement of the  
3 act. In lieu of designating a resident agent, the applicant may  
4 designate in writing the Secretary of State as the recipient of  
5 service of process for the applicant in this state.

6 Sec. 8. Section 2-2639, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 2-2639 (1) A noncommercial applicator shall meet all  
9 certification requirements of the Pesticide Act and shall be a  
10 noncommercial applicator license holder of a license issued for the  
11 categories and subcategories in which the pesticide use is to be  
12 made.

13 (2) Application for an original or renewal noncommercial  
14 applicator license shall be made to the department on forms  
15 prescribed by the department. If the applicant is an individual, the  
16 application shall include the applicant's ~~social security number and~~  
17 date of birth. The department shall not charge a noncommercial  
18 applicant a license fee.

19 (3) The director shall not issue an original  
20 noncommercial applicator license before the applicant has passed an  
21 examination under sections 2-2637 and 2-2640.

22 (4) A person to whom a noncommercial applicator license  
23 is issued shall be a licensed certified applicator authorized to use  
24 restricted-use pesticides in the categories and subcategories in  
25 which the individual is licensed.

1           (5) As a condition to issuance of a noncommercial  
2 applicator license, an applicant located outside this state shall  
3 file with the department a written designation of a resident agent  
4 for service of process in actions taken in the administration and  
5 enforcement of the Pesticide Act. In lieu of designating a resident  
6 agent the applicant may designate the Secretary of State as the  
7 recipient of service of process for the applicant in this state.

8           Sec. 9. Section 2-2641, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           2-2641 (1) A person shall be deemed to be a private  
11 applicator if the person uses a restricted-use pesticide in the State  
12 of Nebraska for the purpose of producing an agricultural commodity:

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

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

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

22           (3) Every person applying for a license as a private  
23 applicator shall meet the certification requirement of (a)  
24 undertaking a training session approved by the department or (b)  
25 passing an examination showing that the person is properly qualified

1 to perform functions associated with pesticide use to a degree  
2 directly related to the nature of the activity and the associated  
3 responsibility. The examination shall be approved by the department  
4 and monitored by the department or its authorized agent. If the  
5 applicant is an individual, the application shall include the  
6 applicant's ~~social security number and~~ date of birth.

7 (4) Application for an original or renewal private  
8 applicator license shall be made to the department and accompanied by  
9 a license fee of twenty-five dollars. All fees collected shall be  
10 remitted to the State Treasurer for credit to the Natural Resources  
11 Water Quality Fund.

12 Sec. 10. Section 2-2642, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 2-2642 (1) Each commercial, noncommercial, and private  
15 applicator license shall expire on April 15 following the third year  
16 in which it was issued.

17 (2) Except as provided by subsection (3) of this section,  
18 a person having a valid commercial or noncommercial applicator  
19 license may renew the license for another three-year period by:

20 (a) Paying to the department an amount equal to the  
21 license fee required by section 2-2638 for commercial applicator  
22 licenses or section 2-2639 for noncommercial applicator licenses, if  
23 any; and

24 (b)(i) Undertaking the training approved by the  
25 department; or

1                   (ii) Submitting to retesting prior to renewal of the  
2 license.

3                   (3) Any person who allows his or her commercial or  
4 noncommercial applicator license to expire shall be required to  
5 submit to testing prior to the renewal of the license.

6                   (4) The application for renewal of a private applicator  
7 license shall be the same as the application for an initial license.

8                   (5) Notwithstanding sections 2-2636 to 2-2642, any  
9 individual required to be a licensed certified applicator may use  
10 pesticides as a noncertified applicator for only one consecutive  
11 sixty-day period of time if:

12                   (a) The individual or his or her employer applies to the  
13 department for a license as a licensed certified applicator within  
14 ten days of making the first pesticide use. Such license application  
15 shall include the name and license number of the licensed certified  
16 applicator who is supervising the noncertified applicator;

17                   (b) All pesticide uses made by an individual as a  
18 noncertified applicator are made under the direct supervision of a  
19 licensed certified applicator; and

20                   (c) The licensed certified applicator provides such  
21 training and supervision as is necessary to:

22                   (i) Determine the level of experience and knowledge of  
23 the noncertified applicator in the use of a pesticide;

24                   (ii) Provide verifiable, detailed guidance on how to  
25 conduct each individual pesticide use performed under his or her

1 direct supervision;

2 (iii) Accompany the noncertified applicator to at least  
3 one site which would be typical of each type of pesticide use that  
4 the noncertified applicator performs;

5 (iv) Be accessible by voice or electronic means to  
6 provide further instructions at all times during the noncertified  
7 applicator's use of the pesticide; and

8 (v) Be able to be physically on the site, should the need  
9 arise, where the pesticide use or storage is taking place within a  
10 reasonable period of time as established by the director by rules and  
11 regulations. Both the licensed certified applicator and noncertified  
12 applicator shall be responsible for the acts of the noncertified  
13 applicator and each shall be subject to all ~~penalties and fines,~~  
14 license actions, and other enforcement actions prescribed by the  
15 Pesticide Act for violations under the Pesticide Act. ~~act.~~ The  
16 department may deny or suspend the use of pesticides by a  
17 noncertified applicator if it has reasonable cause to believe that  
18 such person may not become eligible to become a licensed certified  
19 applicator or uses any pesticide in violation of the act.

20 Sec. 11. Section 2-2646, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 2-2646 It shall be unlawful for any person:

23 (1) To distribute within the state or deliver for  
24 transportation or transport in intrastate commerce or between points  
25 within this state through a point outside this state, any of the

1 following:

2 (a) A pesticide that has not been registered or whose  
3 registration has been canceled or suspended under the Pesticide Act;

4 (b) A pesticide that has a claim, a direction for its  
5 use, or labeling that differs from the representations made in  
6 connection with its registration;

7 (c) A pesticide that is not in the registrant's or  
8 manufacturer's unbroken immediate container and that is not labeled  
9 with the information and in the manner required by the act and any  
10 regulations adopted under the act;

11 (d) A pesticide that is adulterated;

12 (e) A pesticide or device that is misbranded;

13 (f) A pesticide in a container that is unsafe due to  
14 damage;

15 (g) A pesticide which differs from its composition as  
16 registered; or

17 (h) A pesticide that has not been colored or discolored  
18 as required by the Pesticide Act or the federal act;

19 (2) To detach, alter, deface, or destroy, wholly or in  
20 part, any label or labeling provided for by the Pesticide Act or a  
21 rule or regulation adopted under the act;

22 (3) To add any substance to or take any substance from a  
23 pesticide in a manner that may defeat the purpose of the act or any  
24 rule or regulation adopted and promulgated under the act;

25 (4) To use or cause to be used a pesticide contrary to

1 the act, to the labeling of the pesticide, or to a rule or regulation  
2 of the department limiting the use of the pesticide, except that it  
3 shall not be unlawful to:

4 (a) Use a pesticide at any dosage, concentration, or  
5 frequency less than that specified or recommended on the labeling if  
6 the labeling does not specifically prohibit deviation from the  
7 specified or recommended dosage, concentration, or frequency or, if  
8 the pesticide is a termiticide, it is not used at a rate below the  
9 minimum concentration specified or recommended on the label for  
10 preconstruction treatments;

11 (b) Use a pesticide against any target pest not specified  
12 on the labeling if the use is for the crop, animal, or site specified  
13 or recommended on the labeling and the labeling does not specifically  
14 state that the pesticide may be used only for the pests specified or  
15 recommended on the labeling;

16 (c) Employ any method of use not prohibited by the  
17 labeling if (i) the labeling does not specifically state that the  
18 product may be used only by the methods specified or recommended on  
19 the labeling, (ii) the method of use is consistent with the method  
20 specified on labeling, and (iii) the method of use does not more than  
21 minimally increase the exposure of the pesticide to humans or the  
22 environment;

23 (d) Mix a pesticide or pesticides with a fertilizer when  
24 such mixture is not prohibited by the labeling if such mixing is  
25 consistent with the method of application specified or recommended on

1 the labeling and does not more than minimally increase the exposure  
2 of the pesticide to humans or the environment;

3 (e) Use a pesticide in conformance with ~~section 7~~ U.S.C.  
4 136c, 136p, or 136v of the federal act or section 2-2626; or

5 (f) Use a pesticide in a manner that the director  
6 determines to be consistent with the purposes of the Pesticide Act;

7 (5) To use a pesticide at any dosage, concentration, or  
8 frequency greater than specified or recommended on the labeling  
9 unless the labeling allows the greater dosage, concentration, or  
10 frequency;

11 (6) To handle, transport, store, display, or distribute a  
12 pesticide in a manner that violates any provision of the Pesticide  
13 Act or a rule or regulation adopted and promulgated under the act;

14 (7) To use, cause to be used, dispose, discard, or store  
15 a pesticide or pesticide container in a manner that the person knows  
16 or should know is:

17 (a) Likely to adversely affect or cause injury to humans,  
18 the environment, vegetation, crops, livestock, wildlife, or  
19 pollinating insects;

20 (b) Likely to pollute a water supply or waterway; or

21 (c) A violation of the Environmental Protection Act or a  
22 rule or regulation adopted and promulgated pursuant to the act;

23 (8) To use for the person's advantage or reveal, other  
24 than to a properly designated state or federal official or employee,  
25 to a physician, or in an emergency to a pharmacist or other qualified

1 person for the preparation of an antidote, any information relating  
2 to pesticide formulas, trade secrets, or commercial or financial  
3 information acquired under the Pesticide Act and marked as privileged  
4 or confidential by the registrant;

5 (9) To commit an act for which a licensed certified  
6 applicator's license may be suspended, modified, revoked, or placed  
7 on probation under the Pesticide Act whether or not the person  
8 committing the act is a licensed certified applicator;

9 (10) To knowingly or intentionally use, cause to be used,  
10 handle, store, or dispose of a pesticide in a manner that causes  
11 bodily injury to or the death of a human or that pollutes ground  
12 water, surface water, or a water supply;

13 (11) To fail to obtain a license or to pay all fees and  
14 ~~penalties~~ fines as prescribed by an order of the director, the act,  
15 and the rules and regulations adopted and promulgated pursuant to the  
16 act;

17 (12) To fail to keep or refuse to make available for  
18 examination and copying by the department all books, papers, records,  
19 and other information necessary for the enforcement of the act;

20 (13) To hinder, obstruct, or refuse to assist the  
21 director in the performance of his or her duties;

22 (14) To violate any state management plan or pesticide  
23 management plan developed or approved by the department;

24 (15) To distribute or advertise any restricted-use  
25 pesticide for some other purpose other than in accordance with the

1 Pesticide Act and the federal act;

2 (16) To use any pesticide which is under an experimental-  
3 use or emergency-use permit which is contrary to the provisions of  
4 such permit;

5 (17) To fail to follow any order of the department;

6 (18) Except as authorized by law, to knowingly or  
7 intentionally use, cause to be used, handle, store, or dispose of a  
8 pesticide on property without the permission of the owner or lawful  
9 tenant. Applications for outdoor vector control authorized by a  
10 federal or state agency or political subdivision shall not be in  
11 violation of this subdivision when the application is made from  
12 public access property and cannot practically be confined to public  
13 property;

14 (19) To knowingly falsify all or part of any application  
15 for registration or licensing or any other records required to be  
16 maintained pursuant to the Pesticide Act;

17 (20) To alter or falsify all or part of a license issued  
18 by the department; and

19 (21) To violate any other provision of the act.

20 Sec. 12. Section 2-2646.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 2-2646.01 Any person who owns or operates a business that  
23 uses pesticides on the property of another person for hire or  
24 compensation shall be responsible for the acts or omissions of anyone  
25 using a pesticide for such business. Such person shall be subject to

1 the same ~~penalties and violations~~ finances, license actions, and other  
2 enforcement actions prescribed by the Pesticide Act for violations  
3 under the act as the applicator.

4 Sec. 13. Section 2-2656, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 2-2656 (1) An application for an initial or renewal  
7 Nebraska aerial pesticide business license shall be submitted to the  
8 department prior to the commencement of aerial spraying operations,  
9 and an application for renewal of a Nebraska aerial pesticide  
10 business license shall be submitted to the department ~~by January 1 of~~  
11 ~~each year.~~ before commencement of application of pesticides. The  
12 application shall be accompanied by an annual license fee of one  
13 hundred dollars. The license fee may be increased by the director  
14 after a public hearing is held outlining the reason for any proposed  
15 change in the fee, except that the fee shall not exceed one hundred  
16 fifty dollars. All fees collected pursuant to this section shall be  
17 remitted to the State Treasurer for credit to the Pesticide  
18 Administrative Cash Fund. The application shall be on a form  
19 prescribed by the department and shall include the following:

20 (a) The full name and permanent mailing address of the  
21 person applying for such license. If such applicant is an individual,  
22 the application shall include the applicant's personal mailing  
23 address. ~~and social security number.~~ If such applicant is not an  
24 individual, the full name of each partner or member or the full name  
25 of the principal officers shall be given on the application;

1           (b) The location of the applicant's principal departure  
2 location and any additional departure locations utilized for aerial  
3 spraying operations to be conducted within Nebraska identified by one  
4 of the following: Global Positioning System coordinates, legal  
5 description, local address of the site, or airport identifier;

6           (c) A copy of the applicant's agricultural aircraft  
7 operator certificate issued pursuant to 14 C.F.R. part 137 or  
8 evidence the applicant holds such a certificate issued by the Federal  
9 Aviation Administration;

10           (d) The aircraft registration number issued by the  
11 Federal Aviation Administration pursuant to 14 C.F.R. part 47 of all  
12 aircraft owned, rented, or leased by the applicant to be utilized for  
13 aerial pesticide applications and all other aircraft utilized in  
14 aerial spraying operations conducted by the applicant;

15           (e) The Nebraska commercial applicator certificate number  
16 and current Federal Aviation Administration commercial pilot  
17 certificate number of all persons operating aircraft for the aerial  
18 application of pesticides during any aerial spraying operations  
19 conducted by the applicant; and

20           (f) Such other information as deemed necessary by the  
21 director to determine the suitability of the applicant for licensure  
22 as an aerial pesticide business.

23           (2) An applicant located outside this state shall file  
24 with the department a written designation of a resident agent for  
25 service of process in actions taken in the administration and

1 enforcement of the Pesticide Act. In lieu of designating a resident  
2 agent, the applicant may designate the Secretary of State as the  
3 recipient of service of process for the applicant in this state.

4           Sec. 14. This act becomes operative on October 1, 2013.

5           Sec. 15. Original sections 2-2624, 2-2626, 2-2629,  
6 2-2634, 2-2635, 2-2636, 2-2638, 2-2639, 2-2641, 2-2642, 2-2646,  
7 2-2646.01, and 2-2656, Reissue Revised Statutes of Nebraska, are  
8 repealed.