

SENATE BILL No. 318

By Committee on Commerce

1-28

1 AN ACT concerning certain pesticide applications; amending K.S.A. 2013
2 Supp. 2-2454 and 19-101a and repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) Except as otherwise provided in this section, no
6 person shall apply any pesticide which contains 2,4-D or any 2,4-D ester
7 as an active ingredient, either alone or in combination with other
8 ingredients, to any agricultural land, right-of-way or other easement owned
9 or supervised by such person located in Douglas county between 12:01
10 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of
11 each calendar year.

12 (b) Any person intending to apply any of the pesticides listed in
13 subsection (a) in Douglas county during the time period specified in
14 subsection (a) shall:

15 (1) Notify the department of such person's intent to apply a pesticide
16 listed in subsection (a). Such notification shall be made on a form provided
17 by the department and shall be submitted to the department at least three
18 days prior to the date of application of the pesticide.

19 (2) The person shall file a report with the department on a form
20 provided by the department not later than seven working days after the last
21 application date provided in the original notification of the pesticide
22 application as specified in paragraph (1).

23 (c) All records and notifications required by this section shall be in
24 addition to any records required to be maintained by a commercial
25 applicator pursuant to other provisions of the act or any rules and
26 regulations promulgated thereunder.

27 (d) The provisions of this section shall not apply to an application of
28 2,4-DB.

29 (e) For the purposes of this section, the term:

30 (1) "Agricultural land" means land suitable for use in farming; and

31 (2) "farming" shall have the meaning ascribed to such term in K.S.A.
32 2013 Supp. 58-3202, and amendments thereto.

33 (f) This act is supplemental to and shall become a part of the Kansas
34 pesticide law.

35 Sec. 2. K.S.A. 2013 Supp. 2-2454 is hereby amended to read as
36 follows: 2-2454. It shall be unlawful for any person required to be

- 1 licensed, registered or certified under the provisions of this act to:
- 2 (a) Make false or fraudulent claims through any media,
3 misrepresenting the effect of material or methods to be utilized;
- 4 (b) except as provided for in K.S.A. 2-2470, and amendments thereto,
5 make a pesticide recommendation or use not in accordance with the
6 directions for use shown on the label registered under the Kansas
7 agricultural chemical act or by the environmental protection agency, or
8 both;
- 9 (c) knowingly use ineffective or improper methods or materials;
- 10 (d) knowingly operate faulty, unsafe or, if registration is required,
11 unregistered equipment, or operate any equipment in a negligent manner;
- 12 (e) refuse or neglect to keep and maintain records required by this act,
13 or refuse or neglect to make records available when and as required by this
14 act;
- 15 (f) make false or fraudulent records, invoices or reports;
- 16 (g) use fraud or misrepresentation in making an application for or
17 renewal of a license, registration, permit or certificate;
- 18 (h) refuse or neglect to comply with any limitations or restrictions on
19 or in a duly issued license, registration, permit or certificate;
- 20 (i) aid, abet or conspire with any person to evade any of the
21 provisions of this act, or allow a license, registration, permit or certificate
22 to be used by an unlicensed or uncertified person;
- 23 (j) impersonate any state, county or city inspector or official, as
24 acting in their official capacity;
- 25 (k) make any misrepresentation or defraud any member of the public;
- 26 (l) permit a pesticide business license or contract forms to be used by
27 any unlicensed person who is not a salaried or commissioned employee or
28 representative of such licensee, for use in applying pesticides under any
29 commission or subcontracting arrangement;
- 30 (m) use any method or material without regard to public health, safety
31 or welfare;
- 32 (n) engage in or advertise to provide pest control services without
33 benefit of proper licenses, certification or registration;
- 34 (o) use, store, dispose of any pesticide material, pesticide rinsate or
35 container without regard to public health or environmental damage;
- 36 (p) fail to maintain and provide a copy of pesticide product labels and
37 material safety data sheets to customers when so requested;
- 38 (q) use any pesticide in a manner inconsistent with limitations
39 imposed by the secretary pursuant to K.S.A. 2-2471, and amendments
40 thereto;
- 41 (r) distribute, sell, make available for use or use any restricted use
42 pesticide other than by a certified applicator or under the supervision of a
43 certified applicator;

1 (s) distribute, sell or offer for sale any pesticide unless it is in the
2 pesticide registrant's or the pesticide manufacturer's unbroken immediate
3 container and there is affixed to such container the registrant's label which
4 is complete and legible and which can be read through any package
5 wrappers;

6 (t) distribute, sell or offer for sale any pesticide product with altered,
7 defaced or detached labeling; ~~or~~

8 (u) distribute, sell or offer for sale any pesticide product with
9 pesticide or pesticide residue on the container or packaging; *or*

10 (v) *use any pesticide in a manner inconsistent with the provisions of*
11 *section 1, and amendments thereto.*

12 Sec. 3. K.S.A. 2013 Supp. 19-101a is hereby amended to read as
13 follows: 19-101a. (a) The board of county commissioners may transact all
14 county business and perform all powers of local legislation and
15 administration it deems appropriate, subject only to the following
16 limitations, restrictions or prohibitions:

17 (1) Counties shall be subject to all acts of the legislature which apply
18 uniformly to all counties.

19 (2) Counties may not affect the courts located therein.

20 (3) Counties shall be subject to acts of the legislature prescribing
21 limits of indebtedness.

22 (4) In the exercise of powers of local legislation and administration
23 authorized under provisions of this section, the home rule power conferred
24 on cities to determine their local affairs and government shall not be
25 superseded or impaired without the consent of the governing body of each
26 city within a county which may be affected.

27 (5) Counties may not legislate on social welfare administered under
28 state law enacted pursuant to or in conformity with public law No. 271 –
29 74th congress, or amendments thereof.

30 (6) Counties shall be subject to all acts of the legislature concerning
31 elections, election commissioners and officers and their duties as such
32 officers and the election of county officers.

33 (7) Counties shall be subject to the limitations and prohibitions
34 imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments
35 thereto, prescribing limitations upon the levy of retailers' sales taxes by
36 counties.

37 (8) Counties may not exempt from or effect changes in statutes made
38 nonuniform in application solely by reason of authorizing exceptions for
39 counties having adopted a charter for county government.

40 (9) No county may levy ad valorem taxes under the authority of this
41 section upon real property located within any redevelopment project area
42 established under the authority of K.S.A. 12-1772, and amendments
43 thereto, unless the resolution authorizing the same specifically authorized

1 a portion of the proceeds of such levy to be used to pay the principal of
2 and interest upon bonds issued by a city under the authority of K.S.A. 12-
3 1774, and amendments thereto.

4 (10) Counties shall have no power under this section to exempt from
5 any statute authorizing or requiring the levy of taxes and providing
6 substitute and additional provisions on the same subject, unless the
7 resolution authorizing the same specifically provides for a portion of the
8 proceeds of such levy to be used to pay a portion of the principal and
9 interest on bonds issued by cities under the authority of K.S.A. 12-1774,
10 and amendments thereto.

11 (11) Counties may not exempt from or effect changes in the
12 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

13 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
14 through 12-1,109, and amendments thereto, counties may not levy and
15 collect taxes on incomes from whatever source derived.

16 (13) Counties may not exempt from or effect changes in K.S.A. 19-
17 430, and amendments thereto.

18 (14) Counties may not exempt from or effect changes in K.S.A. 19-
19 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

20 (15) Counties may not exempt from or effect changes in K.S.A. 19-
21 15,139, 19-15,140 and 19-15,141, and amendments thereto.

22 (16) Counties may not exempt from or effect changes in the
23 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
24 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
25 1260 through 12-1270 and 12-1276, and amendments thereto.

26 (17) Counties may not exempt from or effect changes in the
27 provisions of K.S.A. 19-211, and amendments thereto.

28 (18) Counties may not exempt from or effect changes in the
29 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

30 (19) Counties may not regulate the production or drilling of any oil or
31 gas well in any manner which would result in the duplication of regulation
32 by the state corporation commission and the Kansas department of health
33 and environment pursuant to chapter 55 and chapter 65 of the Kansas
34 Statutes Annotated, and amendments thereto, and any rules and regulations
35 adopted pursuant thereto. Counties may not require any license or permit
36 for the drilling or production of oil and gas wells. Counties may not
37 impose any fee or charge for the drilling or production of any oil or gas
38 well.

39 (20) Counties may not exempt from or effect changes in K.S.A. 79-
40 41a04, and amendments thereto.

41 (21) Counties may not exempt from or effect changes in K.S.A. 79-
42 1611, and amendments thereto.

43 (22) Counties may not exempt from or effect changes in K.S.A. 79-

1 1494, and amendments thereto.

2 (23) Counties may not exempt from or effect changes in subsection
3 (b) of K.S.A. 19-202, and amendments thereto.

4 (24) Counties may not exempt from or effect changes in subsection
5 (b) of K.S.A. 19-204, and amendments thereto.

6 (25) Counties may not levy or impose an excise, severance or any
7 other tax in the nature of an excise tax upon the physical severance and
8 production of any mineral or other material from the earth or water.

9 (26) Counties may not exempt from or effect changes in K.S.A. 79-
10 2017 or 79-2101, and amendments thereto.

11 (27) Counties may not exempt from or effect changes in K.S.A. 2-
12 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
13 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
14 thereto.

15 (28) Counties may not exempt from or effect changes in K.S.A. 2013
16 Supp. 80-121, and amendments thereto.

17 (29) Counties may not exempt from or effect changes in K.S.A. 19-
18 228, and amendments thereto.

19 (30) Counties may not exempt from or effect changes in the wireless
20 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of
21 K.S.A. 12-5301 through 12-5308, and amendments thereto.

22 (31) Counties may not exempt from or effect changes in K.S.A. 2013
23 Supp. 26-601, and amendments thereto.

24 (32) (A) Counties may not exempt from or effect changes in the
25 Kansas liquor control act except as provided by paragraph (B).

26 (B) Counties may adopt resolutions which are not in conflict with the
27 Kansas liquor control act.

28 (33) (A) Counties may not exempt from or effect changes in the
29 Kansas cereal malt beverage act except as provided by paragraph (B).

30 (B) Counties may adopt resolutions which are not in conflict with the
31 Kansas cereal malt beverage act.

32 (34) Counties may not exempt from or effect changes in the Kansas
33 lottery act.

34 (35) Counties may not exempt from or effect changes in the Kansas
35 expanded lottery act.

36 (36) Counties may neither exempt from nor effect changes to the
37 eminent domain procedure act.

38 (37) Any county granted authority pursuant to the provisions of
39 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
40 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
41 through 19-5005, and amendments thereto.

42 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
43 through 19-5005, and amendments thereto, counties may not exercise any

1 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
2 amendments thereto, including the imposition or levy of any retailers' sales
3 tax.

4 (39) Counties may not exempt from or effect changes in K.S.A. 2013
5 Supp. 19-271, and amendments thereto.

6 (40) *Counties may not exempt from or effect changes in section 1,*
7 *and amendments thereto.*

8 (b) Counties shall apply the powers of local legislation granted in
9 subsection (a) by resolution of the board of county commissioners. If no
10 statutory authority exists for such local legislation other than that set forth
11 in subsection (a) and the local legislation proposed under the authority of
12 such subsection is not contrary to any act of the legislature, such local
13 legislation shall become effective upon passage of a resolution of the
14 board and publication in the official county newspaper. If the legislation
15 proposed by the board under authority of subsection (a) is contrary to an
16 act of the legislature which is applicable to the particular county but not
17 uniformly applicable to all counties, such legislation shall become
18 effective by passage of a charter resolution in the manner provided in
19 K.S.A. 19-101b, and amendments thereto.

20 (c) Any resolution adopted by a county which conflicts with the
21 restrictions in subsection (a) is null and void.

22 Sec. 4. K.S.A. 2013 Supp. 2-2454 and 19-101a are hereby repealed.

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