

As Amended by House Committee

As Amended by Senate Committee

Session of 2021

SENATE BILL No. 38

By Committee on Agriculture and Natural Resources

1-21

1 AN ACT concerning agriculture; relating to environmental remediation;
2 establishing the Kansas pesticide waste disposal program and the
3 Kansas pesticide waste disposal fund; permitting annual transfers from
4 the Kansas agricultural remediation fund to the Kansas pesticide waste
5 disposal fund; amending K.S.A. 2-3702 and K.S.A. 2020 Supp. 2-3708
6 and repealing the existing sections.
7

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

9 New Section 1. (a) There is hereby established a Kansas pesticide
10 waste disposal program to be administered by the secretary of agriculture
11 for the collection and disposal of pesticide waste in the state.

12 (b) The program shall be funded in accordance with section 2, and
13 amendments thereto.

14 New Sec. 2. (a) There is hereby created in the state treasury the
15 Kansas pesticide waste disposal fund. All moneys credited to the Kansas
16 pesticide waste disposal fund shall be used by the secretary of agriculture
17 for the Kansas pesticide waste disposal program established by section 1,
18 and amendments thereto. All expenditures from the Kansas pesticide waste
19 disposal fund shall be made in accordance with appropriation acts upon
20 warrants of the director of accounts and reports issued pursuant to
21 vouchers approved by the secretary of agriculture.

22 (b) The Kansas agricultural remediation board may approve an
23 annual transfer of moneys from the Kansas agricultural remediation fund
24 to the Kansas pesticide waste disposal fund in an amount that shall not
25 exceed \$50,000 per calendar year. Upon such approval, the director of
26 accounts and reports shall transfer such approved moneys from the Kansas
27 agricultural remediation fund to the Kansas pesticide waste disposal fund.

28 (c) On or before January 1 of each year, the secretary of agriculture
29 shall submit to the Kansas agricultural remediation board a report
30 concerning the annual expenditures made from the Kansas pesticide waste
31 disposal program.

32 (d) On or before the 10th day of each month, the director of accounts
33 and reports shall transfer from the state general fund to the Kansas
34 pesticide waste disposal fund interest earnings based on:

1 (1) The average daily balance of moneys in the Kansas pesticide
2 waste disposal fund for the preceding month; and

3 (2) the net earnings rate of the pooled money investment portfolio for
4 the preceding month.

5 Sec. 3. K.S.A. 2-3702 is hereby amended to read as follows: 2-3702.
6 As used in K.S.A. 2-3701–~~through 2-3714~~ *et seq.*, and amendments
7 thereto:

8 (a) "Agricultural or specialty chemical" means any pesticide,
9 fertilizer, plant amendment or soil amendment but does not include nitrate
10 and related nitrogen from a natural source.

11 (b) "Board" means the Kansas agricultural remediation board created
12 by K.S.A. 2-3709, and amendments thereto.

13 (c) "Corrective action" means action in response to release of an
14 agricultural or specialty chemical that poses a threat to human health or the
15 environment.

16 (d) "Eligible corrective action costs" means reasonable and necessary
17 costs of corrective action, as determined in accordance with rules and
18 regulations adopted by the board.

19 (e) "Eligible lending institution" means:

20 (1) A bank, as defined in K.S.A. 75-4201, and amendments thereto,
21 that agrees to participate in the remediation linked deposit program and is
22 eligible to be a depository of state funds; or

23 (2) an institution of the farm credit system organized under the
24 federal farm credit act of 1971–~~1971~~, 12 U.S.C. § 2001}, as amended, that
25 agrees to participate in the remediation linked deposit program and
26 provides securities acceptable to the pooled money investment board
27 pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and
28 amendments thereto.

29 (f) "Eligible person" means:

30 (1) A responsible party or an owner of real property, but does not
31 include the state, any state agency, any political subdivision of the state,
32 the federal government or any agency of the federal government; or

33 (2) a person who:

34 (A) Is involved in a transaction relating to real property;

35 (B) is not a responsible party or owner of the real property; and

36 (C) voluntarily takes corrective action on the property in response to
37 a request or order for corrective action from the department of health and
38 environment.

39 (g) "Fund" means the Kansas agricultural remediation fund
40 established by K.S.A. 2-3711, and amendments thereto.

41 (h) "*Kansas pesticide waste disposal fund*" means the fund
42 established by section 2, and amendments thereto.

43 (i) "*Kansas pesticide waste disposal program*" means the program

1 *established by section 1, and amendments thereto.*

2 (j) "Linked deposit" means an investment account placed by the
3 director of investments under the provisions of article 42 of chapter 75 of
4 the Kansas Statutes Annotated, *and amendments thereto*, with an eligible
5 lending institution for the purpose of the remediation linked deposit loan
6 program.

7 ~~(i)~~(k) "*Pesticide*" means the same as provided in K.S.A. 2-2202, and
8 *amendments thereto.*

9 (l) (1) "*Pesticide waste*" means any pesticide that:

10 (A) *Is not exempt from registration under the federal insecticide,*
11 *fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January*
12 *1, 2021;*

13 (B) *is not eligible for sale or distribution; and*

14 (C) *is not otherwise eligible for return or disposal.*

15 (2) "*Pesticide waste*" includes, but is not limited to:

16 (A) *Pesticides **with no identifiable owner or responsible party** that*
17 *have been abandoned or illegally dumped at a site*~~*with no identifiable*~~
18 ~~*owner or responsible party;*~~

19 (B) *pesticides that are unregistered, canceled, suspended or revoked*
20 *by the Kansas department of agriculture or the United States*
21 *environmental protection agency;*

22 (C) *pesticides with missing or illegible labels;*

23 (D) *pesticides that have been adulterated;*

24 (E) *pesticides in a leaking or damaged container; or*

25 (F) *pesticides that are of no use to the current owner of such*
26 *pesticides.*

27 (m) "Release" means any spill, leak, emission, discharge, escape or
28 disposal of an agricultural or specialty chemical into the soils or waters of
29 the state.

30 ~~(n)~~(n) "Remediation linked deposit loan package" means the forms
31 provided by the state treasurer for the purpose of applying for a
32 remediation linked deposit.

33 ~~(o)~~(o) "Remediation linked deposit loan program" means the program
34 provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

35 ~~(p)~~(p) "Remediation reimbursement program" means the program
36 provided for by K.S.A. ~~2-3709~~ 2-3708 through 2-3713, and amendments
37 thereto.

38 ~~(q)~~(q) "Site" means all land and water areas, including air space, and
39 all plants, animals, structures, buildings, contrivances and machinery,
40 whether fixed or mobile, including anything used for transportation, within
41 a one-half mile radius of a release.

42 Sec. 4. K.S.A. 2020 Supp. 2-3708 is hereby amended to read as
43 follows: 2-3708. (a) There is hereby established the remediation

1 reimbursement program. The program shall be for the purpose of:

2 (1) Providing reimbursement to eligible persons for the costs of
3 corrective action approved by the department of health and environment or
4 taken in accordance with requests or orders issued by the department of
5 health and environment; *and*

6 (2) *providing funding to the Kansas pesticide waste disposal program*
7 *in accordance with section 2, and amendments thereto.*

8 (b) The amount of reimbursement that an eligible person may receive
9 from the fund shall be limited as follows:

10 (1) Except as provided in paragraph (2), for an eligible person who
11 has paid all applicable assessments imposed pursuant to K.S.A. 2-3713,
12 and amendments thereto, reimbursement per site shall not exceed an
13 amount equal to: (A) 90% of total eligible corrective action costs greater
14 than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total
15 eligible corrective action costs greater than \$100,000 and less than or
16 equal to \$200,000. The total amount reimbursed for any one site shall not
17 exceed \$200,000 within a ~~5-year~~ *five-year* period or as otherwise set forth
18 by the board pursuant to rules and regulations, unless the property has
19 been sold or leased and both the buyer and seller or lessee and lessor are
20 responsible for remediation, in which case the total amount reimbursed for
21 any such site shall not exceed \$400,000 within a ~~five-year~~ *five-year* period
22 or as otherwise set forth by the board pursuant to rules and regulations.

23 (2) For an eligible person who is not required to pay or has not paid
24 any assessment imposed pursuant to K.S.A. 2-3713, and amendments
25 thereto, or for a pesticide dealer who has paid the annual \$5 assessment
26 pursuant to ~~subsection (a)(4) of~~ K.S.A. 2-3713(a)(4), and amendments
27 thereto, reimbursement per site shall not exceed an amount equal to 100%
28 of total eligible corrective action costs greater than \$1,000 and less than or
29 equal to \$10,000.

30 Sec. 5. K.S.A. 2-3702 and K.S.A. 2020 Supp. 2-3708 are hereby
31 repealed.

32 Sec. 6. This act shall take effect and be in force from and after its
33 publication in the ~~statute book~~ **Kansas register**.