

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2478

As Amended by House Committee on
Agriculture

Brief*

HB 2478, as amended, would create and make changes to late fees for certain licenses, permits, or registrations pertaining to the Kansas Department of Agriculture (KDA). The bill also would change the renewal date for certain licenses, permits, or registrations required by the KDA. Finally, the bill would reference the definition of live plant dealers contained in current law.

Late Fees

The bill would create late fees for the following licenses, permits, or registrations. The fees could not exceed 40 percent of their current application fee, or \$100, whichever is less, and would be assessed if not paid by the end of the respective license year:

- Commercial feed license (Sec.1);
- Agricultural seed wholesaler or retailer registration (Sec. 2);
- Live plant dealer license (Sec.3);
- Pesticide business license (Sec. 4);
- Government agency pesticide registration (Sec. 4);
- Pest control technicians registration (Sec. 5);
- Private applicators of pesticides certificate (Sec. 6);
- Commercial applicators of pesticides certificate (Sec. 7);

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Pesticide dealers registration (Sec. 8);
- Soil amendment product registration (Sec. 9);
- Lodging establishment license (Sec.11);
- Livestock market operator license (Sec. 12);
- Electronic livestock auction license (Sec. 12);
- Dead animal disposal facility licenses and permits (Sec. 13);
- Feedlot operator license (Sec. 14);
- Livestock dealer registration (Sec. 15);
- Domesticated deer possession permit (Sec. 16);
- Food establishment and food processing plant license (Sec. 18);
- Dairy manufacturing plant license (Sec. 19);
- Milk distributor license (Sec. 19);
- Milk hauler license (Sec. 19);
- Milk or cream transfer or receiving station license (Sec. 19);
- Single service dairy container manufacturing license (Sec. 19);
- Milk tank truck cleaning facility license (Sec. 19);
- Commercial weighing and measuring service company license (Sec. 21); and
- Dispensing device service company license (Sec. 22).

Authority to Adopt Late Fees in Rules and Regulations

The bill would give the Secretary of Agriculture (Secretary) authority to promulgate rules and regulations to charge and collect a late fee for any license, permit, or registration required by laws relating to the KDA that are not renewed prior to the expiration of such license, permit, or registration. The late fee could not exceed 40 percent of the current applicable license, permit, or registration fee, or \$100, whichever is less.

In addition, the bill would also allow the Director of the of the Conservation Commission (now the Secretary of Agriculture) to adopt late fees necessary to enforce the Surface-Mining Land Conservation and Reclamation Act through rules and regulations. [Note: Per provisions found in KSA 2017 Supp 74-5,127 the KDA, is the successor to the Conservation Commission]

License Renewal Date Changes

The bill would change the license expiration date from June 30 to September 30 for the following licenses, permits, and registrations:

- Livestock market operator license (Sec. 12);
- Electronic livestock auction license (Sec. 12);
- Dead animal disposal facility license and permits (Sec. 13);
- Feed lot operator license (Sec. 14);
- Livestock dealer registration (Sec. 15); and
- Domesticated deer permit (Sec. 16).

Agricultural Liming Materials

The bill would also allow any manufacturer of liming materials to delay registration without halting operations until July 31 without a penalty or violation of The Kansas Agricultural Liming Materials Act (Act) if registration is submitted concurrently with a statement required by current law. If a manufacturer of liming materials fails to submit such registration as required by the Act, the manufacturer would be in violation of the Act. The liming material manufacturers license currently expires on June 30.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the House Committee on Agriculture at the request of the KDA.

In the House Committee hearing, the Director of the Division of Agribusiness Services, KDA, provided testimony in favor of the bill stating it is KDA's position that the assessment of late fees is a reasonable and effective motivator for compliance with on-time renewal and allows for a lower license fee with no additional monetary penalty for compliant businesses. The Director also noted the assessment of late fees allows the KDA to pass the cost of pursuing non-compliant businesses onto such businesses.

Opponent testimony was provided by a representative of the Kansas Agricultural Aviation Association. The representative stated the imposition of late fees set forth in the bill would not be equitable across the board because pesticide business licenses fall under many categories and licensees would potentially pay multiple late fees.

Representatives of the Kansas Agribusiness Retailers Association, and the Kansas Cooperative Council provided neutral testimony, noting concerns with late fees associated with pesticide business license categories.

The House Committee amended the bill to:

- Ensure the proposed late fees do not exceed 40 percent of the current application fee, or \$100, whichever is less for all licenses, permits, or registrations excluding those related to the Surface-Mining Land Conservation and Reclamation Act;
- Give the Secretary authority to promulgate rules and regulations to charge and collect a late fee for

any license, permit, registration or certificate required by laws relating to the KDA;

- Establish a late fee for the following licenses, permits, certificates, or registrations:
 - Commercial feed license;
 - Agricultural seed wholesaler or retailer registration;
 - Government agency pesticide registration;
 - Pest control technicians registration;
 - Private applicators of pesticides certificate;
 - Commercial applicators of pesticides certificate;
 - Pesticide dealers registration;
 - Soil amendment product registration;
 - Livestock market operator license;
 - Electronic livestock auction license;
 - Dead animal disposal facility licenses and permits;
 - Feedlot operator license;
 - Livestock dealer registration;
 - Domesticated deer possession permit;
 - Dairy manufacturing plant license;
 - Milk distributor license;
 - Milk hauler license;
 - Milk or cream transfer or receiving station license;
 - Single service dairy container manufacturing license;
 - Milk tank truck cleaning facility license;
 - Commercial weighing and measuring service company license;

- Dispensing device service company license;
and
- Licenses relating to The Surface-Mining Land Conservation and Reclamation Act.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KDA estimates the agency would receive \$40,617 from additional late fees. However, the KDA assumes that fewer people would pay late if there is a penalty or an increase in the existing penalty, and the KDA assumes it will receive 50 percent fewer late applications resulting in \$12,184 in additional revenues. Any fiscal effect associated with the bill is not reflected in *The FY 2019 Governor's Budget Report*.