

FIRST REGULAR SESSION

SENATE BILL NO. 532

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS MATHEWSON AND CHILDERS.

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TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 281.240 and 281.260, RSMo, and to enact in lieu thereof three new sections relating to pesticides, with an expiration date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 281.240 and 281.260, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 281.217, 281.240, and 281.260, to read as follows:

281.217. 1. There is hereby created in the state treasury the "Pesticide Project Fund". In addition to the annual registration fee imposed by section 281.260, an annual registration fee of one hundred dollars shall be imposed for each product registered pursuant to section 281.260, and credited to the pesticide project fund. The moneys in the fund shall be used for the following purposes:

(1) Up to thirty percent of the additional fee imposed by this section for the administration of the pesticide project fund and the pesticide program;

(2) At least seventy percent for distribution to projects that directly apply to: pesticide education efforts; pesticide applicator training; pesticide and water quality monitoring activities; household and agricultural pesticide and pesticide container disposal initiatives; integrated pest management (IPM) practices; and applied research on IPM and water quality improvement programs related to pesticide use at the University of Missouri agricultural research stations and state universities;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. No more than fifteen percent of any grant shall be used for administration expenses by the recipient.

3. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

4. The "Pesticide Project Fund Grant Review Committee" shall be established by the director, in consultation with the chair of the agriculture committee of the house of representatives and the agriculture, conservation, parks and natural resources committee of the senate, to evaluate projects and make awards of funding, including the allocation of administrative costs. The committee shall be composed of the director of the department of agriculture, who shall serve as chair, dean of the University of Missouri's college of agriculture or the dean's designee, one representative of the agriculture pesticide industry, one representative of the consumer pesticide industry, two representatives of general farm organizations, one representative of commodity groups, and one public member.

5. All members of the committee, except the dean of the University of Missouri's college of agriculture, shall serve four-year terms; except that, of the initial appointments one representative of general farm organizations, one representative of the consumer pesticide industry and one public member shall serve two-year terms. Members of the committee shall not be compensated for their service on the committee, but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties with the committee.

6. To be eligible for moneys in the pesticide project fund, applicants shall submit a proposed project plan to the director by March thirty-first, prior to the fiscal year in which the moneys are to be allocated. Allocation of project moneys will be dependent upon approval by the pesticide project fund grant review committee and an executed memorandum of understanding between the recipient and the director.

7. Within thirty days of the end of the state fiscal year in which moneys are allocated, the recipients of the moneys shall submit to the director a report which shall contain an accounting of all moneys expended from the pesticide project fund during such fiscal year and a report of the project or projects for which the moneys were utilized.

8. Any unobligated or unexpended project moneys allocated to a recipient shall revert to the pesticide project fund within sixty days of the close of the project.

9. If a recipient fails to complete a project as outlined in the project plan and memorandum of the understanding, the recipient shall submit partial or full repayment of the allocated moneys to the pesticide project fund as determined by the

director.

10. No moneys, except moneys for the pesticide project fund or the pesticide program administration, shall be withdrawn from the fund prior to July 1, 2004.

11. If the balance of the pesticide project fund exceeds three million dollars in unobligated funds during any fiscal year, fees required for registration of pesticides will be reduced to fifteen dollars the following registration period. When the fund balance falls below one million dollars, the registration fee shall be increased for the following registration period to one hundred fifteen dollars until such time the fund attains a balance of three million dollars in unobligated funds.

12. The pesticide project fund shall be administered by the plant industries division, or any successor division, within the department of agriculture.

13. The department shall provide a written report to the chairpersons of the house agriculture and senate agriculture, conservation, parks and natural resources or successor committees at the opening of every session of the Missouri general assembly providing a detailed account of the programs funded and grants made from the pesticide project fund as well as a description of the expected benefit to rural and urban communities.

14. The committee may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

281.240. 1. No person shall distribute, sell, offer for sale, hold for sale, deliver for transportation, or transport in intrastate commerce or between points within this state through any point outside of this state any of the following:

(1) Any pesticide which has not been registered pursuant to the provisions of section 281.260, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of a pesticide differs from its registration; provided that, in the discretion of the director, a minor change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product. **Any change in trade name, active ingredient, concentration of active ingredient, or environmental protection agency (EPA) registration number shall not be considered a minor change and shall require registration as a new product;**

(2) Any pesticide, unless it is in the registrant's or the manufacturer's unbroken immediate container or a bulk container sealed by the registrant, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing:

(a) The name and address of the manufacturer, registrant, or person for whom manufactured;

(b) The name, brand, or trademark under which said article is sold; and

(c) The net weight or measure of the contents, subject, however, to such reasonable variations as the director may permit;

(3) Any pesticide which contains any substance or substances in quantities highly toxic to man unless the label shall bear, in addition to any other matter required by sections 281.210 to 281.310:

(a) The skull and crossbones;

(b) The word "poison" prominently, in red, on a background of distinctly contrasting color; and

(c) A statement of an antidote for the pesticide;

(4) Any pesticide which is adulterated or misbranded, or any device which is misbranded.

2. It shall be unlawful:

(1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in sections 281.210 to 281.310, or rules promulgated thereunder, or to add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of sections 281.210 to 281.310;

(2) For any person to use for his own advantage or to reveal, other than to the director or proper officials or employees of this state, the courts of this state in response to a subpoena, physicians, or, in emergencies, pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 281.260.

281.260. 1. Every pesticide which is distributed, sold, offered for sale or held for sale within this state, or which is delivered for transportation or transported in intrastate commerce or between points within this state through any point outside of this state, shall be registered in the office of the director, and the registration shall be renewed annually.

2. The registrant shall file with the director a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) The name of the pesticide;

(3) Classification of the pesticide; and

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use.

3. **Beginning with the 2004 registration**, the registrant shall pay an annual fee of **one hundred** fifteen dollars for each product registered in any calendar year or part thereof. [The] **Fifteen dollars of such** fee shall be deposited in the state treasury to the credit

of the general revenue fund **and one hundred dollars of such fee collected shall be deposited in the state treasury to the credit of the pesticide project fund established in section 281.217.** All such registrations shall expire on December thirty-first of any one year, unless sooner canceled. A registration for a special local need pursuant to subsection 6 of this section, which is disapproved by the federal government, shall expire on the effective date of the disapproval.

4. Any registration approved by the director and in effect on the thirty-first day of December for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied, in accord with the provisions of subsection 8 of this section. Forms for reregistration shall be mailed to registrants at least ninety days prior to the expiration date.

5. If the renewal of a pesticide registration is not filed prior to January first of any one year, an additional fee of [five] **fifty** dollars shall be assessed and added to the original fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued; provided, that, such additional fee shall not apply if the applicant furnishes an affidavit certifying that he **or she** did not distribute such unregistered pesticide during the period of nonregistration. The payment of such additional fee is not a bar to any prosecution for doing business without proper registry.

6. Provided the state complies with requirements of the federal government to register pesticides to meet special local needs, the director shall require that registrants comply with sections 281.210 to 281.310 and pertinent federal laws and regulations. Where two or more pesticides meet the requirements of this subsection, one shall not be registered in preference to the other.

7. The director may require the submission of the complete formula of any pesticide to approve or deny product registration. If it appears to the director that the composition and efficacy of the pesticide is such as to warrant the proposed claims for it and if the pesticide and its labeling and other material required to be submitted comply with the requirements of sections 281.210 to 281.310, [he] **the director** shall register the pesticide.

8. The director, after opportunity for hearing, may deny, cancel, suspend, or revoke a pesticide registration if, after consideration of pertinent research findings and recommendations of other agencies of this state or the federal government the director finds that the pesticide causes substantial damages, or is considered dangerous or harmful to persons or the environment.

9. Provided the state is authorized to issue experimental use permits, the director may:

(1) Issue an experimental use permit to any person applying for an experimental use permit if [he] **the director** determines that the applicant needs such permit in order to

accumulate information necessary to register a pesticide [under] **pursuant to** sections [263.269 to 263.380] **281.210 to 281.310**. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;

(2) Prescribe terms, conditions, and period of time for the experimental permit which shall be under the supervision of the director;

(3) Revoke any experimental permit, at any time, if [he] **the director** finds that its terms or conditions are being violated, or that its terms **[and] or** conditions are inadequate to avoid unreasonable adverse effects on the environment.

[9.] 10. If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws, [he] **the director** shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with sections 281.210 to 281.310 or with federal laws so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the pesticide be registered or, in the case of a pesticide that is already registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to determine if the pesticide in question should be registered or canceled. If, after such hearing, it is determined that the pesticide should not be registered or that its registration should be canceled, the director may refuse registration or cancel an existing registration until the required label changes are accomplished. If the pesticide is shown to be in compliance with sections 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from administrative decisions by the director will be taken in accordance with sections 536.100 to 536.140, RSMo.

[10.] 11. Notwithstanding any other provision of sections 281.210 to 281.310, registration is not required in the case of a pesticide shipped from one plant or warehouse within this state to another plant or warehouse within this state when such plants are operated by the same persons.

[11.] 12. The director shall not make any lack of essentiality a criterion for denying registration of a pesticide except where none of the labeled uses are present in the state. Where two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be registered in preference to the other.