

FIRST REGULAR SESSION

SENATE BILL NO. 491

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

2263S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 281.015, 281.020, 281.025, 281.030, 281.035, 281.037, 281.038, 281.040, 281.045, 281.050, 281.055, 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, and 281.101, RSMo, and to enact in lieu thereof nineteen new sections relating to pesticide certification and training, with a delayed effective date.

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

Section A. Sections 281.015, 281.020, 281.025, 281.030,
2 281.035, 281.037, 281.038, 281.040, 281.045, 281.050, 281.055,
3 281.060, 281.063, 281.065, 281.070, 281.075, 281.085, and
4 281.101, RSMo, are repealed and nineteen new sections enacted
5 in lieu thereof, to be known as sections 281.015, 281.020,
6 281.025, 281.030, 281.035, 281.037, 281.038, 281.040, 281.045,
7 281.048, 281.050, 281.055, 281.060, 281.063, 281.065, 281.070,
8 281.075, 281.085, and 281.101, to read as follows:

281.015. Sections 281.005 to 281.115 shall be
2 administered by the director of the department of
3 agriculture of the state of Missouri[, hereafter referred to
4 as the "director"].

281.020. As used in sections 281.010 to 281.115, the
2 following terms mean:

3 (1) "Animal", all vertebrate and invertebrate species,
4 including but not limited to man and other mammals, birds,
5 fish, and shellfish;

6 (2) "Applicator, operator or technician":

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

7 (a) **"Certified applicator", includes certified**
8 **commercial applicator, certified noncommercial applicator,**
9 **certified private applicator, certified provisional private**
10 **applicator, or certified public operator;**

11 (b) **"Certified commercial applicator",** any individual,
12 whether or not [he] **the individual** is a private applicator
13 with respect to some uses, who is certified by the director
14 as authorized to use, supervise the use of, [or] determine
15 the need for the use of, **or supervise the determination of**
16 **need for** any pesticide, whether classified for restricted
17 use or for general use, while [he] **the individual** is engaged
18 in the business of using pesticides on the lands of another
19 as a direct service to the public in exchange for a fee or
20 compensation;

21 [(b)] (c) **"Certified noncommercial applicator",** any
22 individual, whether or not [he] **the individual** is a private
23 applicator with respect to some uses, who is certified by
24 the director as authorized to use, or to supervise the use
25 of, any pesticide which is classified for restricted use
26 only on lands owned or rented by [him or his] **the individual**
27 **or the individual's** employer;

28 [(c)] (d) **"Certified private applicator",** any
29 individual who is certified by the director as authorized to
30 use[, or to supervise the use of,] any pesticide [which]
31 **that** is classified for restricted use for purposes of
32 producing any agricultural commodity on property owned or
33 rented by [him or his] **the individual or the individual's**
34 employer or on the property of another person, if used
35 without compensation other than trading of personal services
36 between producers of agricultural commodities[, on the
37 property of another person];

38 (e) "Certified provisional private applicator", any
39 individual who is sixteen or seventeen years of age, an
40 immediate family member of a certified private applicator,
41 and certified by the director to use any pesticide that is
42 classified for restricted use for purposes of producing any
43 agricultural commodity on property owned or rented by the
44 individual's immediate family member, so long as the
45 following requirements are met:

46 a. The restricted use pesticide (RUP) is not a
47 fumigant;

48 b. The RUP does not contain sodium cyanide or sodium
49 fluoroacetate;

50 c. The individual will not apply any RUP using aerial
51 application equipment;

52 d. The individual will not supervise the use of any
53 RUP; and

54 e. The individual will not purchase any RUP;

55 [(d)] (f) "Certified public operator", any individual
56 who is certified by the director as authorized to use, or to
57 supervise the use of, any pesticide classified for
58 restricted use in the performance of [his] the individual's
59 duties as an official or employee of any agency of the state
60 of Missouri or any political subdivision thereof, or any
61 other governmental agency;

62 (g) "Noncertified restricted use pesticide (RUP)
63 applicator", any person who is not certified in accordance
64 with sections 281.010 to 281.115 who uses or determines the
65 need for the use of restricted use pesticides under the
66 direct supervision of a certified commercial applicator or
67 uses restricted use pesticides under the direct supervision
68 of a certified noncommercial applicator or certified public
69 operator;

70 [(e)] (h) "Private applicator", any person not holding
71 a certified private applicator's license **or certified**
72 **provisional private applicator's license** who [shall be
73 required to obtain a permit for the use of any restricted
74 use pesticide] **uses general use pesticides or minimum risk**
75 **pesticides** for the purposes of producing any agricultural
76 commodity on property owned or rented by [him or his] **the**
77 **person or the person's** employer or on the property of
78 another person, if used without compensation other than
79 trading of personal services between producers of
80 agricultural commodities[, such permit shall authorize the
81 one-time emergency purchase of a restricted use pesticide
82 for the purpose of a one-time emergency use of that
83 pesticide];

84 [(f)] (i) "Pesticide technician", any individual
85 working under the direct supervision of a commercial
86 applicator certified in categories as specified by
87 regulation, and who having met the competency requirements
88 of [this chapter] **sections 281.010 to 281.115**, is authorized
89 by the director to determine the need for the use of any
90 pesticide as well as to the use of any pesticide;

91 [(g)] (j) "Pesticide technician trainee", any
92 individual working in the physical presence and under the
93 direct supervision of a certified commercial applicator to
94 gain the required on-the-job training in preparation for
95 obtaining a pesticide technician's license;

96 (3) "Beneficial insects", those insects [which] **that**,
97 during their life cycle, are effective pollinators of
98 plants, are parasites or predators of pests, or are
99 otherwise beneficial;

100 (4) "Defoliant", any substance or mixture of
101 substances intended for causing the leaves or foliage to
102 drop from a plant, with or without causing abscission;

103 (5) **"Department" or "department of agriculture", the**
104 **state department of agriculture, and when by sections**
105 **281.010 to 281.115 the department of agriculture is charged**
106 **to perform a duty, the director of the department of**
107 **agriculture is authorized to perform such duty;**

108 (6) "Desiccant", any substance or mixture of
109 substances intended for artificially accelerating the drying
110 of plant tissue;

111 [(6)] (7) "Determining the need for the use of any
112 pesticide", the act of inspecting land for the presence of
113 pests for the purpose of contracting for their control or
114 prevention through the use of pesticides in categories as
115 specified by regulation;

116 [(7)] (8) "Device", any instrument or contrivance,
117 other than a firearm, [which] **that** is intended for trapping,
118 destroying, repelling, or mitigating any pest or any other
119 form of plant or animal life, other than man and other than
120 bacteria, viruses, or other microorganisms on or in living
121 man or other living animals, but not including equipment
122 used for the application of pesticides when sold separately
123 therefrom;

124 (9) **"Director", the director of the department of**
125 **agriculture or the director's designee;**

126 (10) **"Distribute", to sell, offer for sale, hold for**
127 **sale, deliver for transportation in intrastate commerce, or**
128 **transport in intrastate commerce;**

129 [(8)] (11) "Environment", includes water, air, land,
130 and all plants and man and other animals living therein, and
131 the interrelationships [which] **that** exist among these;

132 [(9)] (12) "Equipment" [means], any type of ground,
133 water or aerial equipment or contrivance using motorized,
134 mechanical or pressurized power and used to apply any
135 pesticide on land and anything that may be growing,
136 habitating or stored on or in such land, but shall not
137 include any pressurized hand-sized household apparatus used
138 to apply any pesticide, or any equipment or contrivance of
139 which the person who is applying the pesticide is the source
140 of power or energy in making such pesticide application;

141 [(10)] (13) "Fungus", any nonchlorophyll-bearing
142 thallophyte, [that] **which** is[,] any nonchlorophyll-bearing
143 plant of a lower order than mosses and liverworts, **such** as[,
144 for example,] rust, smut, mildew, mold, yeast, and bacteria,
145 except those on or in living man or other living animals,
146 and except those on or in processed food, beverages, or
147 pharmaceuticals;

148 (14) "General use pesticide", any pesticide, when
149 applied in accordance with its directions for use, warnings,
150 and cautions, and for the uses for which it is registered,
151 or for one or more of such uses, or in accordance with a
152 widespread and commonly recognized practice, that will not
153 generally cause unreasonable adverse effects on the
154 environment;

155 (15) "Immediate family", familial relationships
156 limited to the spouse, parents, stepparents, foster parents,
157 father-in-law, mother-in-law, children, stepchildren, foster
158 children, sons-in-law, daughters-in-law, grandparents,
159 brothers, sisters, brothers-in-law, sisters-in-law, aunts,
160 uncles, nieces, nephews, and first cousins. "First cousin"
161 means the child of a parent's sibling, i.e., the child of an
162 aunt or uncle;

163 [(11)] (16) "Individual", any responsible, natural
164 human being;

165 [(12)] (17) "Insect", any of the numerous small
166 invertebrate animals generally having the body more or less
167 obviously segmented, for the most part belonging to the
168 class Insecta, comprising six-legged, usually winged forms,
169 **such** as[, for example,] beetles, bugs, bees, flies, and to
170 other allied classes of arthropods whose members are
171 wingless and usually have more than six legs, **such** as[, for
172 example,] spiders, mites, ticks, centipedes, and wood lice;

173 [(13)] (18) "Land", all land and water areas,
174 including airspace, and all plants, animals, structures,
175 buildings, contrivances and machinery, appurtenant thereto
176 or situated thereon, fixed or mobile, including any used for
177 transportation;

178 (19) **"Minimum risk pesticide", any pesticide product**
179 **exempted under 40 CFR Section 152.25(f) from registration**
180 **requirements under the Federal Insecticide, Fungicide, and**
181 **Rodenticide Act (FIFRA), as amended;**

182 [(14)] (20) "Misuse of a pesticide", a use of any
183 [registered] pesticide in a manner inconsistent with its
184 labeling; provided, that the use of a lesser concentration
185 than provided on the label shall not be considered the
186 misuse of a pesticide when used strictly for agricultural
187 purposes, and when requested in writing by the person on
188 whose behalf a pesticide is used;

189 [(15)] (21) "Nematode", invertebrate animals of the
190 phylum Nematelminthes and class Nematoda, that is,
191 unsegmented round worms with elongated, fusiform, or sac-
192 like bodies covered with cuticle, and inhabiting soil,
193 water, plants, or plant parts; may also be called nemas or
194 eelworms;

195 (22) **"Nontarget organism", any plant, animal, or**
196 **organism other than the target pests that a pesticide is**
197 **intended to affect;**

198 [(16)] (23) "Person", any individual, partnership,
199 association, fiduciary, corporation, or any organized group
200 of persons whether incorporated or not;

201 [(17)] (24) "Pest":

202 (a) Any insect, snail, slug, rodent, nematode, fungus,
203 weed; or

204 (b) Any other form of terrestrial or aquatic plant or
205 animal life or virus, bacterium, or other microorganism,
206 except viruses, bacteria, or other microorganisms on or in
207 living man or other living animals, [which] **that** is normally
208 considered to be a pest;

209 [(18)] (25) "Pesticide":

210 (a) Any substance or mixture of substances intended
211 for preventing, destroying, repelling, or mitigating any
212 pest; or

213 (b) Any substance or mixture of substances intended
214 for use as a plant regulator, defoliant, or desiccant;

215 [(19)] (26) "Pesticide dealer", any individual who is
216 engaged in the business of distributing, selling, offering
217 for sale, or holding for sale at retail, or direct wholesale
218 to the end user, any pesticide classified for restricted use;

219 (27) **"Pesticide dealership", any location or outlet**
220 **where restricted use pesticides are held for sale,**
221 **distributed, or sold;**

222 [(20)] (28) "Plant regulator", any substance or
223 mixture of substances, intended, through physiological
224 action, for accelerating or retarding the rate of growth or
225 rate of maturation, or for otherwise altering the behavior
226 of plants or the produce thereof, but shall not include

227 substances to the extent that they are intended as plant
228 nutrients, trace elements, nutritional chemicals, plant
229 inoculants, or soil amendments. The term "plant regulator"
230 does not include any of those nutrient mixtures or soil
231 amendments [which] **that** are commonly known as vitamin-
232 hormone horticultural products, intended for improvement,
233 maintenance, survival, health and propagation of plants, and
234 [which] **that** are not for pest destruction and are nontoxic,
235 nonpoisonous in the undiluted package concentration;

236 [(21) "Private applicator permit", a written
237 certificate, issued by the director or his authorized agent,
238 authorizing the purchase, possession or use of certain
239 restricted use pesticides by a private applicator. Such
240 permit shall authorize the one-time emergency purchase of a
241 restricted use pesticide for the purpose of a one-time
242 emergency use of such pesticide;

243 [(22)] **(29)** "Restricted use pesticide", any pesticide
244 when applied in accordance with its directions for use,
245 warnings and cautions and for the uses for which it is
246 registered, or for one or more of such uses, or in
247 accordance with a widespread and commonly recognized
248 practice, the director determines may cause, without
249 additional regulatory restrictions, unreasonable adverse
250 effects on the environment, including injury to the
251 applicator;

252 [(23)] **(30)** "Sale", selling or offering for sale any
253 pesticide;

254 [(24)] **(31)** "Snails" or "slugs" includes all harmful
255 mollusks;

256 [(25)] **(32)** "Unreasonable adverse effects on the
257 environment", any unreasonable risk to man or the

258 environment, taking into account the economic, social, and
259 environmental costs and benefits of the use of any pesticide;

260 [(26)] (33) "Under the direct supervision of a
261 certified applicator", when a pesticide is used by a
262 competent person acting under the instructions and control
263 of a certified applicator who is available if and when
264 needed, even though such certified applicator is not
265 physically present at the time and place the pesticide is
266 used;

267 [(27)] (34) "Use", mixing, **loading, or** applying[,
268 storing or disposing of a] **any pesticide; cleaning pesticide**
269 **equipment; or storing or disposing of pesticide containers,**
270 **pesticides, spray mix, equipment wash waters, and other**
271 **pesticide-containing materials;**

272 [(28)] (35) "Weed", any plant [which] **that** grows where
273 not wanted; [and

274 (29)] (36) "Wildlife", all living things that are
275 neither human, domesticated, or pests, including, but not
276 limited to, mammals, protected birds, and aquatic life.

281.025. 1. The director shall administer and enforce
2 the provisions of sections 281.010 to 281.115 and shall have
3 authority to issue regulations after a public hearing
4 following due notice of not less than thirty days to all
5 interested persons, in conformance with the provisions of
6 chapter 536, to carry out the provisions of sections 281.010
7 to 281.115. Where the director finds that such regulations
8 are needed to carry out the purpose and intent of sections
9 281.010 to 281.115, such regulations may relate to, but need
10 not be limited to, prescribing the time, place, manner,
11 methods, materials, and amounts and concentrations, in
12 connection with the use of the pesticide, and may restrict
13 or prohibit use of pesticides in designated areas during

14 specified periods of time and shall encompass all reasonable
15 factors [which] **that** the director deems necessary to prevent
16 damage or injury. In issuing such regulations, the director
17 may give consideration to pertinent research findings and
18 recommendations of other agencies of this state, the federal
19 government, or other reliable sources. The director may by
20 regulation require that notice of a proposed application of
21 a pesticide be given to landowners adjoining the property to
22 be treated or in the immediate vicinity thereof, if [he] **the**
23 **director** finds that such notice is necessary to carry out
24 the purpose of sections 281.010 to 281.115. [The director
25 may, by regulation, provide for the one-time emergency
26 purchase and one-time emergency use of a restricted use
27 pesticide by a private applicator.]

28 2. The pesticides on the list of restricted use
29 pesticides, as determined by the federal agency having
30 jurisdiction over the classification of pesticides, shall be
31 so restricted in the state of Missouri. The director shall
32 publish, at least annually, a list of pesticides [which]
33 **that** have restricted uses. Such publication shall be made
34 available to the public upon request. If the director
35 determines that a pesticide, when used in accordance with
36 its directions for use, warnings and cautions, and for uses
37 for which it is registered, may cause, without additional
38 regulatory restrictions, unreasonable adverse effects on the
39 environment, including injury to the applicator or other
40 persons, the pesticide shall be used only by or under the
41 direct supervision of a certified applicator[, or a private
42 applicator with a permit]. Such pesticides may be subject
43 to other restrictions as determined by the director, to
44 include the time and conditions of possession and use.

45 3. No regulation, or any amendment or repeal thereof,
46 provided for in sections 281.010 to 281.115 shall be
47 adopted, except after public hearing giving an opportunity
48 to the public to be heard, to be held after no less than
49 thirty days' prior notice of the date, time, and place of
50 hearing, to be given by regular mail to any person who has
51 registered with the director for purposes of notice of such
52 public hearings, in accordance with procedures prescribed by
53 the director.

54 4. At any hearing, opportunity to be heard shall be
55 afforded to any interested person upon written request
56 received not later than twenty-four hours prior to the
57 hearing, and may also be afforded to other persons. In
58 addition, any interested person, whether or not heard, may
59 submit within seven days subsequent to the hearing a written
60 statement of views. The director may solicit the views in
61 writing of persons who may be affected by, or interested in
62 any proposed regulation. Any person heard or represented at
63 the hearing, or making written request for notice, shall be
64 given written notice of the action of the director with
65 respect to the subject thereof.

66 5. No rule or portion of a rule promulgated under the
67 authority of this chapter shall become effective unless it
68 has been promulgated pursuant to the provisions of section
69 536.024.

281.030. 1. The director may, by regulation, classify
2 [certified applicator, operator or technician] licenses to
3 be issued under sections 281.010 to 281.115. Such
4 classifications may include but not be limited to commercial
5 applicators, noncommercial applicators, private applicators,
6 **provisional private applicators**, public operators [or],
7 pesticide technicians, **or noncertified RUP applicators**.

8 Separate classifications may be specified as to ground,
9 aerial, or manual methods used by any licensee to apply
10 pesticides or to the use of pesticides for the control of
11 pests.

12 2. The director may, by regulation, establish
13 certification categories to be provided under each license
14 classification. Each certification category shall be
15 subject to separate testing procedures and requirements;
16 provided, that no individual shall be required to pay an
17 additional fee if [he] **the individual** is certified in one or
18 all of the certification categories provided under the
19 license for which [he] **the individual** has applied. The
20 director may, by regulation, establish certification
21 categories limited to the use of certain pesticides and
22 issue a license therefor. Each certification category shall
23 be subject to separate testing procedures covering only
24 those pesticides for which the applicant seeks to be
25 licensed.

26 3. The director may by regulation establish fees for
27 identification documents.

281.035. 1. No individual shall engage in the
2 business of determining the need for the use of, supervising
3 the use of, **supervising the determination of the need for**
4 **the use of**, or using any pesticide, in categories as
5 specified by regulation, on the lands of another at any time
6 without a certified commercial applicator's license issued
7 by the director. A certified commercial applicator shall
8 not determine the need for the use of, supervise the use of,
9 **supervise the determination of the need for the use of**, or
10 use any pesticide for any particular purpose unless [he or
11 she] **the certified commercial applicator** has demonstrated
12 [his or her] **such certified commercial applicator's**

13 competence to use pesticides for that purpose by being
14 certified by the director in the proper certification
15 category. The director shall require an annual fee of sixty-
16 five dollars for each certified commercial applicator's
17 license issued. No certified commercial applicator shall
18 knowingly authorize, direct, or instruct any individual to
19 engage in determining the need for the use of or using any
20 **general use pesticide or minimum risk pesticide** on the land
21 of another at any time unless such individual is a pesticide
22 technician or pesticide technician trainee in such
23 categories as specified by regulation or is working under
24 the direct supervision of a certified commercial applicator
25 so authorizing, directing or instructing, in which case the
26 certified commercial applicator shall be liable for any use
27 of a **general use pesticide or minimum use pesticide** by an
28 individual operating under [his or her] **the certified**
29 **commercial applicator's** direct supervision. The certified
30 commercial applicator or the employer shall assure that the
31 director is informed in writing within ten [working] days of
32 the employment of any person as a pesticide technician or
33 pesticide technician trainee.

34 2. **No certified commercial applicator shall knowingly**
35 **authorize, direct, or instruct any individual to engage in**
36 **determining the need for the use of or using any restricted**
37 **use pesticide on the land of another at any time unless such**
38 **individual is licensed as a noncertified RUP applicator**
39 **while working under the direct supervision of a certified**
40 **commercial applicator so authorizing, directing, or**
41 **instructing, in which case the certified commercial**
42 **applicator shall be liable for any use of a restricted use**
43 **pesticide by an individual operating under the certified**
44 **commercial applicator's direct supervision.**

45 3. Application for a certified commercial applicator's
46 license shall be [made in writing] **submitted** to the director
47 on a designated form obtained from the [director's office]
48 **department**. Each application shall include such information
49 as prescribed by the director by regulation.

50 [3.] 4. The director shall not issue a certified
51 commercial applicator's license until the applicant is
52 certified by passing an examination provided by the director
53 to demonstrate to the director [his or her] **the applicant's**
54 competence and knowledge of the proper use of pesticides
55 under the classifications [he or she] **the applicant** had
56 applied for, and [his or her] **the applicant's** knowledge of
57 the standards prescribed by regulations for the
58 certification of commercial applicators.

59 [4.] 5. The director may renew any certified
60 commercial applicator's license under the classification for
61 which such applicant is licensed, [subject to] **upon**
62 **successful completion of approved recertification training**
63 **or** reexamination for additional knowledge that may be
64 required to use pesticides safely and properly either
65 manually or with equipment the applicant has been licensed
66 to operate.

67 [5.] 6. If the director finds the applicant qualified
68 to use pesticides in the classification for which
69 application has been made, and if the applicant files
70 evidence that the requirement for bonds or insurance has
71 been met as required under section 281.065, the director
72 shall issue a certified commercial applicator's license
73 limited to the classifications for which [he or she] **the**
74 **applicant** is qualified, which shall expire one year from
75 date of issuance unless [it] **the license** has been revoked or
76 suspended prior thereto by the director for cause; provided,

77 such financial responsibility required under section 281.065
78 does not expire at an earlier date, in which case [said] **the**
79 license shall expire upon the expiration date of the
80 financial responsibility. The director may limit the
81 license of the applicant to the use of certain [restricted
82 use] pesticides, or to certain areas, or to certain types of
83 equipment if the applicant is only so qualified. If a
84 license is not issued as applied for, the director shall
85 inform the applicant in writing of the reasons therefor.

86 [6.] 7. The director shall require each certified
87 commercial applicator or [his or her] **the certified**
88 **commercial applicator's** employer to maintain records with
89 respect to applications of any pesticide, **including**
90 **pesticides used under direct supervision by licensed**
91 **pesticide technicians, pesticide technician trainees, and**
92 **licensed noncertified RUP applicators.** Such relevant
93 information as the director may deem necessary may be
94 specified by regulation. Such records shall be kept for a
95 period of three years from the date of the application of
96 the pesticide to which such records refer, and the director
97 shall, upon request in writing, be furnished with a copy of
98 such records by any certified commercial applicator or [his
99 or her] **the certified commercial applicator's** employer.

100 [7.] 8. A person or individual engaged in the business
101 of using pesticides on the lands of another, who is deprived
102 of [his or her] **such person's or individual's** sole certified
103 commercial applicator by reason of death, illness,
104 incapacity or any absence which the director determines is
105 unavoidable, is authorized to continue business operations
106 without the services of a certified commercial applicator
107 for a period of time deemed appropriate by the director, but
108 not to exceed sixty days; except that, no restricted-use

109 pesticide shall be used, or caused to be used, by such
110 person or individual. Any such person or individual shall
111 immediately notify the director as to the absence of [his or
112 her] **such person's or individual's** sole certified commercial
113 applicator.

114 [8.] 9. Every certified commercial applicator shall
115 display [his or her] **the certified commercial applicator's**
116 license in a prominent place at the site, location or office
117 from which [he or she] **the certified commercial applicator**
118 will operate as a certified commercial applicator; that
119 place, location or office being at the address printed on
120 the license.

121 [9.] 10. Every certified commercial applicator who
122 changes the address from which [he or she] **the certified**
123 **commercial applicator** will operate as a certified commercial
124 applicator shall immediately notify the director. The
125 director shall immediately issue a revised license upon
126 which shall be printed the changed address. The director
127 shall not collect a fee for the issuance of a revised
128 license. The expiration date of the revised license shall
129 be the same as the expiration date for the original license.

281.037. 1. Any individual who is not certified
2 pursuant to section 281.035, 281.040 or 281.045, [or has not
3 been issued a private applicator permit pursuant to
4 subsection 5 of section 281.040] shall not use, or supervise
5 the use of, any restricted-use pesticide without a certified
6 noncommercial applicator license. A certified noncommercial
7 applicator shall not use, or supervise the use of, any
8 restricted use pesticide for any purpose unless [he or she]
9 **the certified noncommercial applicator** has demonstrated [his
10 or her] **the certified noncommercial applicator's** competence

11 to use pesticides for that purpose by being certified by the
12 director in the proper certification category.

13 2. **No certified noncommercial applicator shall**
14 **knowingly authorize, direct, or instruct any individual to**
15 **engage in using any restricted use pesticide on lands or**
16 **structures owned, leased, or rented by the certified**
17 **noncommercial applicator or the certified noncommercial**
18 **applicator's employer unless such individual is licensed as**
19 **a noncertified RUP applicator while working under the direct**
20 **supervision of a certified noncommercial applicator so**
21 **authorizing, directing, or instructing, in which case the**
22 **certified noncommercial applicator shall be liable for any**
23 **use of a restricted use pesticide by an individual operating**
24 **under the certified noncommercial applicator's direct**
25 **supervision.**

26 3. Application for a certified noncommercial
27 applicator license shall be [made in writing] **submitted** to
28 the director on a designated form obtained from the
29 [director's office] **department**. Each application shall
30 include such information as prescribed by the director by
31 regulation.

32 [3.] 4. The director shall not issue a certified
33 noncommercial applicator license until the applicant is
34 certified by passing an examination provided by the director
35 to demonstrate to the director [his or her] **the applicant's**
36 competence and knowledge of the proper use of pesticides
37 under the classifications for which [he or she] **the**
38 **applicant** has applied, and [his or her] **the applicant's**
39 knowledge of the standards prescribed by regulations for the
40 certification of noncommercial applicators.

41 [4.] 5. If the director finds the applicant qualified
42 to use restricted use pesticides in the classification for

43 which [he or she] **the applicant** has applied, the director
44 shall issue a certified noncommercial applicator license
45 limited to the applicator categories in which [he or she]
46 **the applicant** is certified. The license shall expire one
47 year from the date of issuance unless [it] **the license** has
48 been revoked or suspended prior thereto by the director for
49 cause. The director may limit the license of the applicant
50 to the use of certain restricted use pesticides, or to
51 certain areas, or to certain types of equipment if the
52 applicant is only so qualified. If a license is not issued
53 as applied for, the director shall inform the applicant in
54 writing of the reasons therefor.

55 [5.] **6.** The director may renew any certified
56 noncommercial applicator license under the classification
57 for which the license is issued [subject to] **upon successful**
58 **completion of approved recertification training or**
59 reexamination for additional knowledge [which] **that** may be
60 required to apply pesticides safely and properly.

61 [6.] **7.** The director shall collect a fee of thirty-
62 five dollars for each certified noncommercial applicator
63 license issued.

64 [7.] **8.** Any certified noncommercial applicator may
65 use, or supervise the use of, restricted use pesticides only
66 to or on lands or structures owned, leased or rented by
67 [himself or herself or his or her] **the certified**
68 **noncommercial applicator or the certified noncommercial**
69 **applicator's** employer.

70 [8.] **9.** The director shall require the certified
71 noncommercial applicator or [his or her] **the certified**
72 **noncommercial applicator's** employer to maintain records with
73 respect to applications of restricted use pesticides. Any
74 relevant information [which] **that** the director may deem

75 necessary may be required by regulation. Such records shall
76 be kept for a period of three years from the date of the
77 application of the pesticide to which such records refer,
78 and the director shall, upon request in writing, be
79 furnished with a copy of such records by any certified
80 noncommercial applicator or [his or her] **the certified**
81 **noncommercial applicator's** employer.

82 [9.] 10. Every certified noncommercial applicator
83 shall display [his or her] **the certified noncommercial**
84 **applicator's** license in a prominent place at the site,
85 location or office from which [he or she] **the certified**
86 **noncommercial applicator** will operate as a certified
87 noncommercial applicator; that place, location or office
88 being at the address printed on the license.

89 [10.] 11. Every certified noncommercial applicator who
90 changes the address from which [he or she] **the certified**
91 **noncommercial applicator** will operate as a certified
92 noncommercial applicator shall immediately notify the
93 director. The director shall immediately issue a revised
94 license upon which shall be printed the changed address.
95 The director shall not collect a fee for the issuance of a
96 revised license. The expiration date of the revised license
97 shall be the same as the expiration date for the original
98 license.

281.038. 1. [After July 1, 1990,] No individual
2 working under the direct supervision of a certified
3 commercial applicator shall determine the need for the use
4 of **or use** any **general use** pesticide [nor use any] **or minimum**
5 **risk** pesticide in categories as specified by regulation,
6 unless and until the individual has met the requirements of
7 [this chapter] **sections 281.010 to 281.115.**

8 2. Application for a pesticide technician's license
9 shall be [made in writing] **submitted** to the director on a
10 designated form obtained from the [director's office]
11 **department**. Each application shall include such information
12 as prescribed by the director by regulation and shall be
13 received by the director within forty-five days of
14 employment of the pesticide technician or pesticide
15 technician trainee.

16 3. The director shall not issue a pesticide
17 technician's license until the individual has demonstrated
18 [his or her] **the applicant's** competence by completion of an
19 approved training program to the satisfaction of the
20 director.

21 4. The director may renew any pesticide technician's
22 license under the classification for which that applicant is
23 licensed subject to completion of an additional approved
24 training program to the satisfaction of the director as
25 prescribed by regulation.

26 5. The director shall collect a fee of thirty-five
27 dollars for each pesticide technician license issued.

28 6. If the director finds the applicant qualified to
29 use pesticides in the classification for which application
30 has been made, the director shall issue a pesticide
31 technician's license limited to the classifications for
32 which [he or she] **the applicant** is qualified, which shall
33 expire one year from date of issuance unless [it] **the**
34 **license** has been revoked or suspended prior thereto by the
35 director for cause. The director may limit the license of
36 the applicant to the use of certain pesticides, or to
37 certain areas, or to certain types of equipment if the
38 applicant is only so qualified. If a license is not issued

39 as applied for, the director shall inform the applicant in
40 writing of the reasons for such denial of license.

41 **7. In order for pesticide technicians to use or**
42 **determine the need for the use of any pesticide:**

43 **(1) A certified commercial applicator must be licensed**
44 **to work from the same physical location as the pesticide**
45 **technician; and**

46 **(2) The licensed certified commercial applicator must**
47 **be certified in the same categories as the pesticide**
48 **technician as specified by regulation.**

49 **8. A pesticide technician may complete retraining**
50 **requirements and renew the technician's license without a**
51 **certified commercial applicator working from the same**
52 **physical location.**

281.040. 1. No private applicator shall use any
2 restricted-use pesticide unless [he] **the private applicator**
3 first complies with the requirements determined pursuant to
4 subsection [2 or 5] **3** of this section, as necessary to
5 prevent unreasonable adverse effects on the environment,
6 including injury to the applicator or other persons, for
7 that specific pesticide use.

8 **2. No certified private applicator shall knowingly**
9 **authorize, direct, or instruct any individual to engage in**
10 **using any restricted use pesticide on lands or structures**
11 **owned, leased, or rented by the certified private applicator**
12 **or the certified applicator's employer unless such**
13 **individual is licensed as a certified private applicator or**
14 **a certified provisional private applicator.**

15 **3. The private applicator shall qualify for a**
16 **certified private applicator's license or certified**
17 **provisional private applicator's license by [either]**
18 **attending [a course or completing an online course of**

19 instruction] **an approved certification training program**
20 **provided by University of Missouri extension, completing an**
21 **online certification training program provided by University**
22 **of Missouri extension, or by passing the required private**
23 **applicator certification examination** provided by the
24 director on the use, handling, storage and application of
25 restricted-use pesticides **in the proper certification**
26 **categories as specified by regulation.** The content of the
27 instruction shall be determined and revised as necessary by
28 the director. Upon completion of the [course] **certification**
29 **training program, completion of the online certification**
30 **training program, or passage of the required private**
31 **applicator certification examination,** the director shall
32 issue a certified private applicator's license **or certified**
33 **provisional private applicator's license** to the applicant.
34 The director shall not collect a fee for the issuance of
35 such license[, but the]. University of Missouri extension
36 [service] may collect [a fee for the actual cost of the
37 materials necessary to complete the course of instruction]
38 **reasonable fees for training and study materials and for**
39 **enrollment in an in-person training or online certification**
40 **training program.** [However, no fee] **Such fees** shall be
41 assessed [or collected from an individual completing an
42 online course of instruction] **based on the majority decision**
43 **of a review committee convened every five years by the**
44 **director.** [Both the director of the department and of the
45 University of Missouri extension service shall review such
46 costs annually.] **Such committee shall be provided revenue**
47 **and expense information for the training program from**
48 **University of Missouri extension and information on the**
49 **content of the instruction and method of delivery from the**
50 **director. The committee shall report its minutes, fee**

51 decisions, and evaluation of the training provided to the
52 chairs of the House of Representatives and Senate
53 agriculture or equivalent committees. The committee shall
54 be composed of five members including:

- 55 (1) The director;
- 56 (2) The director of University of Missouri extension
57 or his or her designee;
- 58 (3) The president of a statewide corn producers
59 organization who actively grows corn or his or her designee;
- 60 (4) The president of a statewide soybean producers
61 organization who actively grows soybeans or his or her
62 designee; and
- 63 (5) The president of the state's largest general farm
64 membership organization or his or her designee.

65 [3.] 4. A certified private applicator's license shall
66 expire five years from date of issuance and may then be
67 renewed without charge or additional fee. Any certified
68 private applicator holding a valid license may renew that
69 license for the next five years [without additional training
70 unless the director determines that additional knowledge
71 related to the use of agricultural pesticides makes
72 additional training necessary] upon successful completion of
73 approved recertification training or by passing the required
74 private applicator certification examination.

75 5. On the date of the certified provisional private
76 applicator's eighteenth birthday, his or her license will
77 automatically be converted to a certified private applicator
78 license reflecting the original expiration date from
79 issuance. A certified provisional private applicator's
80 license shall expire five years from date of issuance and
81 may then be renewed as a certified private applicator's
82 license without charge or additional fee.

83 [4.] 6. If the director does not qualify the private
84 applicator under this section [he] **the director** shall inform
85 the applicant in writing of the reasons therefor.

86 [5. The private applicator may apply to the director,
87 or his designated agent, for a private applicator permit for
88 the one-time emergency purchase and use of restricted use
89 pesticides. When the private applicator has demonstrated
90 his competence in the use of the pesticides to be purchased
91 and used on a one-time emergency basis, he shall be issued a
92 permit for the one-time emergency purchase and use of
93 restricted use pesticides. The director or his designated
94 agent shall not collect a fee for the issuance of such
95 permit.]

 281.045. 1. All agencies of the state of Missouri and
2 the political subdivisions thereof, and any other
3 governmental agency shall be subject to the provisions of
4 sections 281.010 to 281.115 and rules adopted thereunder
5 concerning the use of restricted use pesticides.

6 2. Public operators for agencies listed in subsection
7 1 of this section shall not use, or supervise the use of,
8 any restricted use pesticides on any land or structure
9 without a certified public operator license issued by the
10 director. The certified public operator shall not use or
11 supervise the use of any restricted use pesticide for any
12 purpose unless [he] **the certified public operator** has
13 demonstrated [his] **the certified public operator's**
14 competence to use pesticides for that purpose by being
15 certified by the director in the proper certification
16 category. [Any employee of any agency listed in subsection
17 1 of this section who is not licensed as a certified public
18 operator may use restricted use pesticides only under the
19 direct supervision of a certified public operator.]

20 3. No certified public operator shall knowingly
21 authorize, direct, or instruct any individual to engage in
22 using any restricted use pesticide on lands or structures
23 unless such individual is licensed as a noncertified RUP
24 applicator while working under the direct supervision of a
25 certified public operator so authorizing, directing, or
26 instructing, in which case the certified public operator
27 shall be liable for any use of a restricted use pesticide by
28 an individual operating under the certified public
29 operator's direct supervision.

30 4. Application for a certified public operator license
31 shall be [made in writing] **submitted** to the director on a
32 designated form obtained from the [director's office]
33 **department**. Each application shall include all information
34 prescribed by the director by regulation.

35 [4.] 5. The director shall not issue a certified
36 public operator license until the applicant is certified by
37 passing an examination provided by the director to
38 demonstrate to the director [his] **the applicant's** competence
39 and knowledge of the proper use of pesticides under the
40 classifications for which [he] **the applicant** has applied,
41 and [his] **the applicant's** knowledge of the standards
42 prescribed by regulations for the certification of public
43 operators.

44 [5.] 6. If the director finds the applicant qualified
45 to use pesticides in the classification for which [he] **the**
46 **applicant** has applied, the director shall issue a license,
47 without a fee, to the certified public operator who has so
48 qualified. The certified public operator license shall be
49 valid only when the operator is acting as an operator using,
50 or supervising the use of, restricted use pesticides in the
51 course of [his] **the operator's** employment. A certified

52 public operator license shall expire three years from the
53 date of issuance unless [it] **the license** has been revoked or
54 suspended prior thereto by the director for cause. The
55 director may limit the license of the applicant to the use
56 of certain restricted use pesticides, or to certain areas,
57 or to certain types of equipment if the applicant is only so
58 qualified. If a license is not issued as applied for, the
59 director shall inform the applicant in writing of the
60 reasons therefor.

61 [6.] 7. The director may renew any certified public
62 operator license under the classification for which that
63 applicant is licensed, [subject to] **upon successful**
64 **completion of approved recertification training or**
65 reexamination for additional knowledge which may be required
66 to use pesticides safely and properly either manually or
67 with equipment the applicant has been licensed to operate.

68 [7.] 8. The director shall require the certified
69 public operator, or [his] **the certified public operator's**
70 employer, to maintain records with respect to applications
71 of restricted use pesticides. Any relevant information
72 which the director may deem necessary may be required by
73 regulation. Such records shall be kept for a period of
74 three years from the date of the application of the
75 pesticide to which such records refer, and the director
76 shall, upon request in writing, be furnished with a copy of
77 such records by any certified public operator or [his] **the**
78 **certified public operator's** employer.

79 [8.] 9. Agencies listed in subsection 1 of this
80 section shall be subject to a legal action by any person
81 damaged by any use of any pesticide, which may be brought in
82 the county where the damage or any part thereof occurred.

83 [9.] 10. Every certified public operator shall display
84 [his] **the certified public operator's** license in a prominent
85 place at the site, location or office from which [he] **the**
86 **certified public operator** will operate as a certified public
87 operator, that place, location or office being at the
88 address printed on the license.

89 [10.] 11. Every certified public operator who changes
90 the address from which [he] **the certified public operator**
91 will operate as a certified public operator shall
92 immediately notify the director. The director shall
93 immediately issue a revised license upon which shall be
94 printed the changed address. The director shall not collect
95 a fee for the issuance of a revised license. The expiration
96 date of the revised license shall be the same as the
97 expiration date for the original license.

98 12. **Any person who volunteers to work for a public**
99 **agency may use general use pesticides without a license**
100 **under the supervision of the public agency on lands owned or**
101 **managed by the state agency, political subdivision, or**
102 **governmental agency.**

 281.048. 1. No individual shall use or determine the
2 **need for the use of any restricted use pesticide while**
3 **working under the direct supervision of a certified**
4 **commercial applicator until the individual has met the**
5 **requirements of this section.**

6 2. No individual shall use restricted use pesticides
7 **while working under the direct supervision of a certified**
8 **noncommercial applicator or certified public operator until**
9 **the individual has met the requirements of this section.**

10 3. Application for a noncertified RUP applicator's
11 **license shall be submitted to the director on a designated**
12 **form obtained from the department. Each application shall**

13 include such information as prescribed by the director by
14 regulation.

15 4. The director shall issue or renew a noncertified
16 RUP applicator license once an individual has met the
17 requirements set forth in 40 CFR section 171.201(c)(1) or
18 (3). The director shall collect an annual fee of thirty-
19 five dollars for each noncertified RUP applicator license
20 issued. The license shall be valid for one year unless
21 revoked or suspended by the department prior to its
22 expiration. Any individual whose application is denied
23 shall receive a written explanation as to the determination
24 of the denial.

25 5. Individuals holding a valid noncertified RUP
26 applicator license may use and determine the need for the
27 use of restricted use pesticides, general use pesticides,
28 and minimum risk pesticides under the direct supervision of
29 a certified commercial applicator and only for the
30 categories in which the commercial applicator is certified.
31 The director may limit the license of the applicant to the
32 use of certain pesticides, or to certain areas, or to
33 certain types of equipment if the applicant is only so
34 qualified.

35 6. Every certified commercial applicator, certified
36 noncommercial applicator, or certified public operator
37 providing direct supervision to a licensed noncertified RUP
38 applicator shall immediately notify the director when the
39 licensed noncertified RUP applicator has changed address
40 from which the applicator or operator will operate as a
41 licensed noncertified RUP applicator or when the
42 noncertified RUP applicator's employment has been
43 terminated. The director shall immediately issue a revised
44 license upon which shall be printed the change of address.

45 The director shall not collect a fee for the issuance of a
46 revised license. The expiration date of the revised license
47 shall be the same as the expiration date for the original
48 license.

49 7. A noncertified RUP applicator may complete
50 retraining requirements and renew the applicator's license
51 without a certified commercial applicator, certified
52 noncommercial applicator, or certified public operator
53 working from the same physical location.

54 8. Every licensed noncertified RUP applicator shall
55 display the applicator's license in a prominent place at the
56 site, location, or office from which the applicator will
57 operate as a noncertified RUP applicator that place,
58 location, or office being at the address printed on the
59 license.

281.050. 1. No individual shall act in the capacity
2 of a pesticide dealer or shall engage in the business of,
3 advertise as, or assume to act as a pesticide dealer unless
4 [he or she] **the individual** has obtained a license from the
5 director [which] **that** shall expire one year from date of
6 issuance. [An individual shall be required to obtain a
7 license for] Each **pesticide dealership** location or outlet
8 from which [such] **restricted use** pesticides are distributed,
9 sold, held for sale, or offered for sale at retail or
10 wholesale direct to the end user[. Pesticide dealers may be
11 designated by the director as agents of the state for the
12 purpose of issuing permits for restricted use pesticides to
13 private applicators] **shall have at least one individual**
14 **licensed as a pesticide dealer. No individual shall be**
15 **issued more than one pesticide dealer license. Each mobile**
16 **salesperson possessing restricted use pesticides for**
17 **distribution or sale shall be licensed as a pesticide dealer.**

18 2. Application for a pesticide dealer's license shall
19 be made on a designated form obtained from the [director's
20 office] **department**. The director shall collect a fee of
21 thirty-five dollars for the issuance of each license. The
22 provisions of this section shall not apply to a pesticide
23 applicator who sells pesticides only as an integral part of
24 [his or her] **the applicator's** pesticide application service
25 when such pesticides are dispensed only through apparatuses
26 used for such pesticide applications. The provisions of
27 this section shall not apply to any federal, state, or
28 county agency [which] **that** provides pesticides for its own
29 programs.

30 3. Each applicant shall satisfy the director as to
31 [his or her] **the applicant's** knowledge of the laws and
32 regulations governing the use and sale of pesticides and
33 [his or her] **the applicant's** responsibility in carrying on
34 the business of a pesticide dealer **by passing a pesticide**
35 **dealer examination provided by the director**. Each licensed
36 pesticide dealer shall be responsible for [insuring]
37 **ensuring** that all of [his or her] **the dealer's** employees and
38 agents who sell or recommend restricted use pesticides have
39 adequate knowledge of the laws and regulations governing the
40 use and sale of such restricted use pesticides.

41 4. Each pesticide dealer shall be responsible for the
42 acts of each person employed by [him or her] **the dealer** in
43 the solicitation and sale of pesticides and all claims and
44 recommendations for use of pesticides. The dealer's license
45 shall be subject to denial, suspension, or revocation after
46 a hearing for any violation of sections 281.010 to 281.115
47 whether committed by the dealer, or by the dealer's officer,
48 agent or employee.

49 5. No pesticide dealer shall sell, give away or
50 otherwise make available any restricted use pesticides to
51 anyone but certified **commercial applicators, certified**
52 **noncommercial** applicators [or], **certified public** operators,
53 or to **certified** private applicators [who have met the
54 requirements of subsection 5 of section 281.040,] **holding**
55 **valid certifications in proper certification categories** or
56 to other **licensed** pesticide dealers, except that pesticide
57 dealers may allow the designated representative of such
58 certified applicators[, operators or private applicators] to
59 take possession of restricted use pesticides when those
60 restricted use pesticides are purchased by and for use by or
61 under the direct supervision of such certified applicator[,
62 operator or private applicator].

63 6. The director shall require the pesticide dealer, or
64 [his or her] **the dealer's** employer, to maintain books and
65 records with respect to sales of restricted use pesticides
66 **at each dealership location or outlet.** Such relevant
67 information as the director may deem necessary may be
68 specified by regulation. Such records shall be kept for a
69 period of three years from the date of sale of the
70 restricted use pesticide to which such records refer, and
71 the director shall upon request in writing be furnished with
72 a copy of such records by any licensed pesticide dealer or
73 [his or her] **the dealer's** employer.

74 7. Every licensed pesticide dealer who changes [his or
75 her] **the dealer's** address or place of business shall
76 immediately notify the director.

281.055. 1. If the [application for] renewal of any
2 license[,] **or** certification [or permit] provided for in
3 [this chapter] **sections 281.010 to 281.115** is not filed
4 prior to **the** expiration date in any year, a penalty of

5 twenty-five percent shall be assessed and added to the
6 original fee and shall be paid by the applicant before the
7 license[,] **or** certification [or permit] shall be renewed[;
8 provided, that such penalty shall not apply if the applicant
9 furnishes an affidavit certifying that he has not engaged in
10 the business subsequent to the expiration of his license,
11 certification or permit]. Any person holding a current
12 valid license[,] **or** certification [or permit] may renew the
13 license[,] **or** certification [or permit] for the next year
14 without taking another examination unless the director
15 determines that additional knowledge related to
16 classifications for which the applicant has applied makes a
17 new examination necessary. However, if the license is not
18 renewed within sixty days following the date of expiration
19 [then], **the license shall be cancelled and** the licensee
20 shall be required to satisfy all the requirements of
21 licensure as if such person was never licensed.

22 2. The director may promulgate reasonable regulations
23 requiring additional training and instruction on the part of
24 any applicant for a license issued under sections 281.010 to
25 281.115.

26 3. The director shall have prepared for prospective
27 licensee's use[,] a book of guidelines of factual necessary
28 information related to the requirements of sections 281.010
29 to 281.115. A reasonable fee may be collected for [said]
30 **the** publication.

281.060. 1. The director, after inquiry, and after
2 opportunity for a hearing, may deny, suspend, revoke, or
3 modify the provisions of any license[, permit,] or
4 certification issued under sections 281.010 to 281.115, if
5 [he] **the director** finds that the applicant or the holder of
6 a license[, permit,] or certification has violated any

7 provision of sections 281.010 to 281.115, or any regulation
8 issued thereunder, or has been convicted or subject to a
9 final order imposing a civil or criminal penalty pursuant to
10 the Federal Insecticide, Fungicide and Rodenticide Act
11 (FIFRA), as amended, or has been convicted, or is the
12 subject of prosecution, in [another] **this state or in any**
13 state or protectorate of the United States, or has had a
14 pesticide applicator license[,] **or** certificate [or permit]
15 denied, suspended, revoked or modified by [another] **any**
16 state or protectorate of the United States, or the person
17 has been finally adjudicated and found guilty, or entered a
18 plea of guilty or nolo contendere, in a criminal prosecution
19 under the laws of any state or of the United States, for any
20 offense reasonably related to the qualifications, functions
21 or duties of any profession licensed or regulated under
22 [this chapter] **sections 281.010 to 281.115**, for any offense
23 an essential element of which is fraud, dishonesty or an act
24 of violence, or for any offense involving moral turpitude,
25 whether or not sentence is imposed. **Licensed certified**
26 **applicators, licensed noncertified RUP applicators, licensed**
27 **pesticide technicians, and licensed pesticide dealers shall**
28 **notify the department within ten days of any conviction of**
29 **or plea to any offense listed in this section.**

30 2. If the director determines, after inquiry and
31 opportunity for a hearing, that any [individual] **person** is
32 in violation of any provision of sections 281.010 to
33 281.115, or any regulations issued thereunder, the director
34 shall have the authority to assess a civil penalty of not
35 more than one thousand dollars for each violation, and in
36 addition, may order that restitution be made to any person.

37 3. In the event that a person penalized or ordered to
38 pay restitution under this section fails to pay the penalty

39 or restitution, the director may apply to the circuit court
40 of Cole County for, and the court is authorized to enter, an
41 order enforcing the assessed penalty or restitution.

281.063. The director may subpoena witnesses and
2 compel the production of books, documents and records
3 anywhere in the state in any hearing affecting the authority
4 or privilege granted by a license[,] **or** certificate [or
5 permit] issued under the provisions of sections 281.010 to
6 281.115.

281.065. 1. The director shall not issue a certified
2 commercial applicator's license until the applicant or the
3 employer of the applicant has furnished evidence of
4 financial responsibility with the director consisting either
5 of a surety bond or a liability insurance policy or
6 certification thereof, protecting persons who may suffer
7 legal damages as a result of [the operations of] **pesticide**
8 **use by** the applicant; except that, such surety bond or
9 liability insurance policy need not apply to damages or
10 injury to crops, plants or land being worked upon by the
11 applicant. Following the receipt of the initial license,
12 the certified commercial applicator shall not be required to
13 furnish evidence of financial responsibility to the
14 department for the purpose of license renewal unless upon
15 request. Annual renewals for surety bonds or liability
16 insurance shall be maintained at the business location from
17 which the certified commercial applicator is licensed.
18 Valid surety bonds or liability insurance certificates shall
19 be available for inspection by the director [or his or her
20 designee] at a reasonable time during regular business hours
21 or, upon a request in writing, the director shall be
22 furnished a copy of the surety bond or liability insurance

23 certificate within ten [working] days of receipt of the
24 request.

25 2. The amount of the surety bond or liability
26 insurance required by this section shall be not less than
27 fifty thousand dollars for each occurrence. Such surety
28 bond or liability insurance shall be maintained at not less
29 than that sum at all times during the licensed period. The
30 director shall be notified by the surety or insurer within
31 twenty days prior to any cancellation or reduction of the
32 surety bond or liability insurance. If the surety bond or
33 liability insurance policy which provides the financial
34 responsibility for the certified commercial applicator is
35 provided by the employer of the certified commercial
36 applicator, the employer of the certified commercial
37 applicator shall immediately notify the director upon the
38 termination of the employment of the certified commercial
39 applicator or when a condition exists under which the
40 certified commercial applicator is no longer provided bond
41 or insurance coverage by the employer. The certified
42 commercial applicator shall then immediately execute **and**
43 **submit to the director** a surety bond or an insurance policy
44 to cover the financial responsibility requirements of this
45 section and the certified commercial applicator or the
46 applicator's employer shall maintain the surety bond or
47 liability insurance certificate at the business location
48 from which the certified commercial applicator is licensed.
49 The director may accept a liability insurance policy or
50 surety bond in the proper sum which has a deductible clause
51 in an amount not exceeding one thousand dollars; except
52 that, if the bond- or policyholder has not satisfied the
53 requirement of the deductible amount in any prior legal
54 claim, such deductible clause shall not be accepted by the

55 director unless the bond- or policyholder executes and
56 maintains a surety bond or liability insurance which shall
57 satisfy the amount of the deductible as to all claims that
58 may arise in [his or her] **the bond- or policyholder's**
59 application of pesticides.

60 3. If the surety becomes unsatisfactory, **the**
61 **commercial applicator license shall expire and become**
62 **invalid and** the bond- or policyholder shall immediately
63 execute **and submit to the director** a new bond or insurance
64 policy and maintain the surety bond or liability insurance
65 certificate at the business location from which the
66 certified commercial applicator is licensed, and if [he or
67 she] **the bond- or policyholder** fails to do so, the director
68 shall cancel [his or her] **the bond- or policyholder's**
69 license, or deny the license of an applicant, and give [him
70 or her] **the bond- or policyholder's** notice of cancellation
71 or denial, and it shall be unlawful thereafter for the
72 applicant to engage in the business of using pesticides
73 until the bond or insurance is brought into compliance with
74 the requirements of subsection 1 of this section. If the
75 bond- or policyholder does not execute a new bond or
76 insurance policy within sixty days of expiration of such
77 bond or policy, the licensee shall be required to satisfy
78 all the requirements for licensure as if never before
79 licensed.

80 4. Nothing in sections 281.010 to 281.115 shall be
81 construed to relieve any person from liability for any
82 damage to the person or lands of another caused by the use
83 of pesticides even though such use conforms to the rules and
84 regulations of the director.

281.070. 1. The director may investigate the use of
2 any pesticide or claims of damages [which] **that** result from
3 the use of any pesticide.

4 2. Any person who claims to have been damaged as a
5 result of a pesticide use and who requests an investigation
6 of that damage by the director shall file with the director,
7 on a form provided by the director, a written statement
8 claiming that [he] **the person** has been damaged. Damage
9 statements shall be filed within thirty days after the date
10 the damage is alleged to have occurred, unless a growing
11 crop is alleged to have been damaged. If a growing crop is
12 alleged to have been damaged, the damage statement shall be
13 filed at least two weeks prior to the time that twenty-five
14 percent of that crop has been harvested. The director
15 shall, upon receipt of the statement, notify the person
16 alleged to have caused the damage and the owner or lessee of
17 the land, or other person who may be charged with the
18 responsibility of the damages claimed, and furnish copies of
19 any statements which may be requested. The director shall
20 inspect damages whenever possible and [he] **the director**
21 shall make [his] **the director's** inspection reports available
22 to the person claiming damage and to the person who is
23 alleged to have caused the damage. Where damage is alleged
24 to have occurred, the claimant shall permit the director,
25 the licensee and [his] **the licensee's** representatives, such
26 as the bondsman or insurer, to observe, within reasonable
27 hours, the lands or nontarget organism alleged to have been
28 damaged.

29 3. The filing of or the failure to file need not be
30 alleged in any complaint which might be filed in a court of
31 law, and the failure to file a damage claim shall not be
32 considered any bar to the maintenance of any criminal or

33 civil action. The failure to file such a report shall not
34 be a violation of sections 281.010 to 281.115. However, if
35 the person failing to file such report is the only one
36 injured from such use or application of a pesticide by
37 others, the director may, when in the public interest,
38 refuse to hold a hearing for the denial, suspension or
39 revocation of a license [or permit] issued under sections
40 281.010 to 281.115 until such report is filed.

41 4. The director may in the conduct of any
42 investigation or hearing authorized or held by [him] **the**
43 **director:**

44 (1) Examine, or cause to be examined, under oath, any
45 person;

46 (2) Examine, or cause to be examined, books and
47 records of the sale or use of any pesticide directly related
48 to the investigation;

49 (3) Hear such testimony and take such evidence as will
50 assist [him] **the director** in the discharge of [his] **the**
51 **director's** duties under [this chapter] **sections 281.010 to**
52 **281.115;**

53 (4) Administer or cause to be administered [oath]
54 **oaths;** and

55 (5) Issue subpoenas to require the attendance of
56 witnesses and the production of books and records directly
57 related to the investigation.

281.075. [1.] The director may issue a [license or]
2 **pesticide applicator** certification on a reciprocal basis
3 with other states without examination to a nonresident who
4 is licensed [or] **as a** certified [in another state
5 substantially] **applicator in accordance with the**
6 **reciprocating state's requirements and is a resident of the**
7 **reciprocating state. A pesticide applicator certification**

8 **shall be issued** in accordance with the provisions of
9 sections 281.010 to 281.115; except that, financial
10 responsibility **[must]** **shall** be filed pursuant to section
11 281.065. Fees collected shall be the same as for resident
12 licenses or certification.

13 [2. Any nonresident applying for any license under
14 section 281.035, 281.037, 281.038 or 281.050 to operate in
15 the state of Missouri shall designate in writing the
16 secretary of state as the agent of such nonresident upon
17 whom process may be served as provided by law; except that,
18 any such nonresident who has designated a resident agent
19 upon whom process may be served as provided by law shall not
20 be required to designate the secretary of state as such
21 agent. The secretary of state shall be allowed such fees
22 therefor as provided by law for designating resident
23 agents. The director shall be furnished with a copy of such
24 designation of the secretary of state or of a resident
25 agent, such copy to be certified by the secretary of state.]

281.085. No person shall discard, transport, or store
2 any pesticide or pesticide containers in such a manner **that**
3 **is inconsistent with label directions or** as to cause injury
4 to humans, vegetation, crops, livestock, wildlife,
5 beneficial insects or to pollute any waterway. The director
6 may promulgate rules and regulations governing the
7 discarding and storing of such pesticide or pesticide
8 containers. In determining these rules and regulations the
9 director shall take into consideration any regulations
10 issued by the Federal Environmental Protection Agency.

281.101. 1. It shall be unlawful for any **[individual]**
2 **person** to violate any provision of sections 281.010 to
3 281.115, or any regulation issued thereunder.

4 2. The following are determined to be unlawful acts:

5 (1) It shall be unlawful to recommend for use, [to]
6 **cause to use**, use, or [to] supervise the use of any
7 pesticide in a manner inconsistent with its labeling
8 required by labeling requirements of FIFRA, **the** Missouri
9 pesticide use act, or **the** Missouri pesticide registration
10 act;

11 (2) It shall be unlawful for any [individual] **person**
12 to misuse any pesticide;

13 (3) **It shall be unlawful for any person to use or**
14 **supervise the use of pesticides that are cancelled or**
15 **suspended;**

16 (4) **It shall be unlawful for any person not holding a**
17 **valid certified applicator license in proper certification**
18 **categories or a valid pesticide dealer license to purchase**
19 **or acquire restricted use pesticides;**

20 (5) It shall be unlawful to make any false or
21 misleading statements during the course of an investigation
22 into the sale, distribution, use or misuse of any pesticide;

23 [(4)] (6) It shall be unlawful to make any false or
24 misleading statement on any application, form or document
25 submitted to the director concerning licensing pursuant to
26 sections 281.010 to 281.115 or any regulations issued
27 thereunder;

28 [(5)] (7) It shall be unlawful to make any false,
29 misleading or fraudulent statement or claim, through any
30 media, [which] **that** misrepresents the effects of any
31 pesticide, the methods to be utilized in the application of
32 any pesticide, or the qualifications of the person
33 determining the need for the use of any pesticide or using
34 any pesticide;

35 [(6)] (8) It shall be unlawful to make any false or
36 misleading statement specifying[,] or inferring that a

37 person or [his] **the person's** methods are recommended by any
38 branch of government or that any pesticide work done will be
39 inspected by any branch of government;

40 **[(7)] (9)** It shall be unlawful to aid or abet any
41 licensed or unlicensed individual in evading the provisions
42 of sections 281.010 to 281.115 or any regulation issued
43 thereunder, or to conspire with any licensed or unlicensed
44 individual in evading the provisions of sections 281.010 to
45 281.115 or any regulation issued thereunder;

46 **(10)** It shall be unlawful for any person to steal or
47 attempt to steal pesticide certification examinations or
48 examination materials, cheat on pesticide certification
49 examinations, evade completion of recertification or
50 retraining requirements, or aid and abet any person to steal
51 or attempt to steal examinations or examination materials,
52 cheat on examinations, or evade recertification or
53 retraining requirements.

54 **3.** Other acts [which] **that** are not specified, but
55 [which] **that** violate sections 281.010 to 281.115 or
56 regulations issued thereunder, shall nevertheless be
57 unlawful.

Section B. Section A of this act shall become
2 effective on January 1, 2024.

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