

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 358

By: Bergstrom

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6 AS INTRODUCED

7 An Act relating to the Combined Pesticide Law;
8 amending 2 O.S. 2011, Section 3-81, as amended by
9 Section 1, Chapter 280, O.S.L. 2014, (2 O.S. Supp.
10 2020, Section 3-81), which relates to definitions;
11 modifying definition; and providing an effective
12 date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, as
15 amended by Section 1, Chapter 280, O.S.L. 2014 (2 O.S. Supp. 2020,
16 Section 3-81), is amended to read as follows:

17 Section 3-81. As used in the Combined Pesticide Law:

18 1. "Aircraft" means any contrivance used or designed for
19 navigation of or flight in the air over land or water and is
20 designed for or adaptable for use in applying pesticides as sprays,
21 dusts, or other forms;

22 2. "Active ingredient" means an ingredient, which defoliates
23 plants, prevents fruit drop, inhibits sprouting, or destroys,
24 repels, or mitigates insects, fungi, bacteria, rodents, weeds, or
25 other pests;

1 3. "Adulterated" means and includes any pesticide if the
2 pesticide strength or purity falls below the professed standard of
3 quality as expressed on labeling or under which it is sold, or if
4 any substance has been substituted wholly or in part for the
5 components of the pesticide, or if any valuable constituent of the
6 components of the pesticide has been wholly or in part abstracted;

7 4. "Antidote" means the most practical immediate treatment in
8 case of poisoning and includes but is not limited to first aid
9 treatment;

10 5. "Business location" means any place, site, or facility
11 maintained by a commercial or noncommercial applicator where
12 records, including but not limited to, financial statements,
13 payroll, insurance, and personnel documents are maintained,
14 pesticides are stored, or customers are served. A location serving
15 strictly as a telephone answering service shall not be considered a
16 business location;

17 6. "Certificate" means a written document issued to an
18 individual by the State Board of Agriculture which indicates that
19 the individual has met the certification standards established by
20 the Combined Pesticide Law for the category of pesticide application
21 shown on the certificate. A certificate does not allow a person to
22 do work as a commercial, noncommercial, service technician, or
23 private applicator unless employed by a licensed entity or has a
24 valid license issued by the Board;

1 7. "Certification standards" means the standards that a person
2 shall meet to become a certified applicator;

3 8. "Certified applicator" means a person who has met the
4 certification standards;

5 9. "Commercial application" means the advertising of services,
6 recommendation for use, the preparation for application, or the
7 physical act of applying a pesticide or employment of a device for
8 hire or compensation;

9 10. "Commercial applicator" means any person engaging in the
10 commercial application of pesticides or commercial employment of
11 devices. Any farmer while working for a neighbor in agricultural
12 production, not advertising, and not held out to be in the business
13 of applying restricted-use pesticides, shall not be classified by
14 the Board as a commercial applicator;

15 11. "Contract" means a binding, written agreement between two
16 or more persons spelling out terms and conditions and includes, but
17 is not limited to, warranties or guarantees for pesticide
18 application. For structural pest control applications, the contract
19 shall also include a statement, plat, or diagram showing all
20 locations of visible termites and termite damaged materials which
21 are observed, and how the application was performed;

22 12. "Defoliant" means any pesticide intended to cause the
23 leaves or foliage to drop from a plant, with or without causing
24 abscission;

1 13. "Desiccant" means any pesticide intended to artificially
2 accelerate the drying of plant tissues;

3 14. "Device" means any instrument subject to the United States
4 Environmental Protection Agency regulation intended for trapping,
5 destroying, repelling, or mitigating insects or rodents, or
6 mitigating fungi, bacteria, or weeds, or other pests designated by
7 the Board, but not including pheromone lures, pheromone traps and
8 pheromone monitoring system components and equipment used for the
9 application of pesticides when sold separately;

10 15. "Direct supervision" means that the certified applicator is
11 responsible for assuring that persons working, subject to direct
12 supervision, are qualified to handle pesticides and are instructed
13 in the application of the specific pesticides used in each
14 particular application conducted which is subject to their
15 supervision. Certified applicators shall be accessible to the
16 noncertified applicator at all times during the application of the
17 pesticide by telephone, radio, or any device approved by the Board;

18 16. "Fungi" means all nonchlorophyll-bearing thallophytes,
19 including, but not limited to, rusts, smuts, mildews, molds, yeasts,
20 and bacteria, except those on humans or animals;

21 17. "Fungicide" means any pesticide intended for preventing,
22 destroying, repelling, or mitigating any fungi or bacteria;

23 18. "Ground equipment" means any machine, equipment, or device
24 other than aircraft designed for use, adaptable for use, or used on
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1 land or water in applying pesticides as sprays, dusts, aerosols,
2 fogs, or other forms;

3 19. "Herbicide" means any pesticide intended for preventing,
4 destroying, repelling, desiccating, or mitigating any weed, or for
5 defoliating plants, preventing fruitdrop, and inhibiting sprouting;

6 20. "Inert ingredient" means an ingredient, which is not an
7 active ingredient;

8 21. "Ingredient statement" means a statement containing the
9 name and percentage of each active ingredient, and the total
10 percentage of all inert ingredients in the pesticide. If the
11 pesticide contains arsenic in any form, the percentages of total and
12 water-soluble arsenic shall each be calculated as elemental arsenic;

13 22. "Insect" means any of the numerous small invertebrate six-
14 legged animals generally having the body more or less obviously
15 segmented, many belonging to the class Insecta, including, but not
16 limited to, beetles, bugs, and flies as well as allied classes of
17 arthropods including spiders, mites, ticks, centipedes, and wood
18 lice;

19 23. "Insecticide" means any pesticide intended for preventing,
20 destroying, repelling, or mitigating any insects which may be
21 present in any environment;

22 24. "Label" means the written, printed, or graphic matter
23 attached to the pesticide, device, or container including the
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1 outside container or wrapper of the retail package of the pesticide
2 or device;

3 25. "Labeling" means all labels and other written, printed, or
4 graphic material:

- 5 a. upon the pesticide, device, or any of its containers
6 or wrappers,
- 7 b. accompanying the pesticide or device at any time, or
- 8 c. to which reference is made on the label or in
9 literature accompanying the pesticide or device except
10 when accurate, nonmisleading reference is made to
11 current official publications of the United States
12 Environmental Protection Agency, United States
13 Department of Agriculture, United States Department of
14 the Interior, the United States Public Health Service,
15 State Experiment Stations, State Agricultural
16 Colleges, or other federal institutions or official
17 agencies of this state or other states authorized by
18 law to conduct research in the field of pesticides;

19 26. "License" means a written document issued to a person by
20 the Board which shows that the person has met all established
21 licensing requirements established by the Combined Pesticide Law and
22 who is authorized to apply pesticides as a commercial,
23 noncommercial, or private applicator pursuant to the license issued;
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1 27. "Minimum standards" means the measures prescribed by the
2 Board to bring appropriate pesticide services to the public;

3 28. "Misbranded" means and includes:

4 a. any pesticide or device if its labeling bears any
5 statement, design, or graphic representation relative
6 to its ingredients which is false or misleading, or

7 b. any pesticide or device:

8 (1) if it is an imitation of or is offered for sale
9 under the name of another pesticide or device,

10 (2) if its labeling bears any reference to
11 registration under the Combined Pesticide Law,

12 (3) if the labeling accompanying it does not contain
13 instructions for use which are necessary and, if
14 complied with, adequate for the protection of the
15 public,

16 (4) if the label does not contain a warning or
17 caution statement which may be necessary and, if
18 complied with, adequate to prevent injury to
19 humans and vertebrate animals,

20 (5) if the label does not bear an ingredient
21 statement on that part of the immediate container
22 and on the outside container or wrapper, if there
23 is one, through which the ingredient statement on
24 the immediate container cannot be clearly read,

- 1 of the retail package which is presented or
2 displayed under customary conditions of purchase,
3 (6) if any word, statement, or other information
4 required by or under the authority of the
5 Combined Pesticide Law to appear on the labeling
6 is not prominently placed with conspicuousness,
7 as compared with other words, statements,
8 designees, or graphic matter in the labeling, and
9 in terms likely to be read and understood by an
10 individual under customary conditions of purchase
11 and use, or
12 (7) if in the case of an insecticide, fungicide, or
13 herbicide, when used as directed or in accordance
14 with commonly recognized practice, it shall be
15 injurious to humans, vertebrate animals, or
16 vegetation, except weeds, to which it is applied,
17 or to the person applying the pesticide;

18 29. "Noncommercial applicator" means any person, other than a
19 commercial or private applicator, who uses or supervises the use of
20 a restricted-use pesticide. The noncommercial applicator shall be
21 under the supervision of an owner or manager of property and who is
22 certified in the same manner as a commercial applicator. A
23 noncommercial applicator is subject to all requirements except those
24 pertaining to financial responsibility. Noncommercial applicator

1 includes a government employee applying restricted-use pesticides in
2 the discharge of official duties;

3 30. "Nonrestricted-use pesticide" means any pesticide, other
4 than a pesticide classified as restricted-use pesticide;

5 31. "Nonrestricted-use pesticide dealer" means any person
6 engaged in the sale, storage, or distribution of any pesticide other
7 than those pesticides classified by the United States Environmental
8 Protection Agency or the Board as restricted-use pesticides;

9 32. "Permit" means a written document issued by the Board which
10 shows that a person has met all of the permitting requirements
11 established by the Combined Pesticide Law and is authorized to sell
12 pesticides as a restricted-use or nonrestricted-use pesticide dealer
13 in accordance with the type of permit issued;

14 33. "Pest" means any organism harmful to man including, but not
15 limited to, insects, mites, nematodes, weeds, and pathogenic
16 organisms. Pathogenic organisms include viruses, mycoplasma,
17 bacteria, rickettsia, and fungi which the Board declares to be a
18 pest;

19 34. "Pesticide" means a substance or mixture of substances
20 intended for defoliating or desiccating plants, preventing
21 fruitdrop, inhibiting sprouting, or for preventing, destroying,
22 repelling, or mitigating any insects, rodents, fungi, bacteria,
23 weeds, or other forms of plant or animal life or viruses, which the
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1 Board declares to be a pest, except viruses on or in humans or
2 animals;

3 35. "Private applicator" means any person who uses or
4 supervises the use of any restricted pesticide for purposes of
5 producing any agricultural commodity on property owned or rented by
6 the person, or employer, or on the property of another person if
7 applied without compensation other than trading of personal services
8 between producers of agricultural commodities;

9 36. "Registrant" means the person registering any pesticide or
10 device pursuant to the provisions of the Combined Pesticide Law;

11 37. "Restricted-use pesticide" means any pesticide classified
12 for restricted use by the United States Environmental Protection
13 Agency, either by regulation or through the registration process, or
14 by the Board pursuant to the Oklahoma Agricultural Code;

15 38. "Restricted-use pesticide dealer" means any person engaged
16 in the sale, storage, or distribution of restricted-use pesticides;

17 39. "Rodenticide" means any pesticide intended for preventing,
18 destroying, repelling, or mitigating rodents or any other animal
19 which the Board declares a pest;

20 40. "Service technician" means a person employed by a licensed
21 commercial or noncommercial applicator who applies the pesticide or
22 employs a device, but is not a certified applicator. A service
23 technician or certified applicator shall be present at each
24 application performed;

1 41. "Temporary certified applicator" means a person who has
2 successfully completed the written examinations required for
3 certification but has not successfully completed the practical
4 examination;

5 42. "Use" means transportation, storage, mixing, application,
6 safe handling, waste and container disposal, and other specific
7 instructions contained on the label and labeling;

8 43. "Weed" means any plant or plant part which grows where not
9 wanted; and

10 44. "Wood infestation report" means a document issued with a
11 property transaction which shall, at a minimum, contain statements
12 or certifications as to the presence or absence of termites and any
13 other wood destroying insects, and the presence or absence of
14 damage. The wood infestation report does not include a bid or
15 proposal for treatment.

16 SECTION 2. This act shall become effective November 1, 2021.

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