

SECOND REGULAR SESSION

# HOUSE BILL NO. 2204

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BRITT.

Read 1<sup>st</sup> time March 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4987L.011

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### AN ACT

To repeal sections 281.240 and 281.260, RSMo, and to enact in lieu thereof three new sections relating to pesticides.

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Section A. Sections 281.240 and 281.260, RSMo, are repealed and three new sections  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

**281.217. 1. There is hereby created in the state treasury the "Pesticide Project  
2 Fund". The annual registration fees imposed in section 281.260 shall be credited to the  
3 pesticide project fund. The moneys in the fund shall be used for the following purposes:**

4 **(1) Up to twenty percent for the administration of the pesticide project fund and  
5 the pesticide registration program;**

6 **(2) Up to eighty percent for distribution to projects that relate to: pesticide and  
7 agriculture education efforts; pesticide applicator training; pesticide and water quality  
8 monitoring activities; household and agricultural pesticide and pesticide container disposal  
9 initiatives; integrated pest management (IPM) practices; and programs that foster value-  
10 added production and processing opportunities; and**

11 **(3) Any remaining moneys may be used to fund other pesticide-related issues as  
12 determined by the director.**

13 **2. An advisory committee shall be established by the director to evaluate projects  
14 and make recommendations on awards of funding. The committee shall be composed of  
15 no less than one representative of the agriculture pesticide industry, one representative of**

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

16 the consumer pesticide industry, one representative of farm advocacy, one representative  
17 of commodity groups and one public member.

18 3. To be eligible for moneys in the pesticide project fund, applicants shall submit  
19 a proposed project plan to the director by March thirty-first, prior to the fiscal year in  
20 which the moneys are to be allocated. Allocation of project moneys will be dependent upon  
21 an executed memorandum of understanding between the entity receiving the moneys and  
22 the director.

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

27 5. Any unobligated or unexpended project moneys allocated to an entity shall  
28 revert to the pesticide project fund within sixty days of the close of the project.

29 6. If an entity fails to complete a project as outlined in the project plan and  
30 memorandum of the understanding, the entity shall submit partial or full repayment of the  
31 allocated moneys to the pesticide project fund as determined by the director.

32 7. No moneys, except moneys for pesticide project fund or pesticide registration  
33 program administration, shall be withdrawn from the fund prior to July 1, 2003.

34 8. If the balance of the pesticide project fund exceeds five million dollars in  
35 unobligated funds during any calendar year, fees required for registration of pesticides will  
36 be reduced to fifteen dollars the following registration period. When the fund attains a  
37 balance of three million dollars, the registration fee will be increased to one hundred  
38 twenty-five dollars the following registration period.

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

41 10. The department shall provide a written report to the chairpersons of the house  
42 agriculture and senate agriculture, parks and tourism committees at the opening of every  
43 session of the Missouri general assembly providing a detailed account of the programs  
44 funded and grants made from the pesticide project fund as well as a description of the  
45 expected benefit to the agriculture community.

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

4 (1) Any pesticide which has not been registered pursuant to the provisions of section  
5 281.260, or any pesticide if any of the claims made for it or any of the directions for its use differ  
6 in substance from the representations made in connection with its registration, or if the

7 composition of a pesticide differs from its registration; provided that, in the discretion of the  
8 director, a minor change in the labeling or formula of a pesticide may be made within a  
9 registration period without requiring reregistration of the product. **Any change in company  
10 name, trade name, active ingredient, concentration of active ingredient, or environmental  
11 protection agency (EPA) registration number would not be considered a minor change and  
12 would require registration as a new product;**

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

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

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

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

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

26 (a) The skull and crossbones;

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

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

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

32 2. It shall be unlawful:

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

37 (2) For any person to use for his own advantage or to reveal, other than to the director  
38 or proper officials or employees of this state, the courts of this state in response to a subpoena,  
39 physicians, or, in emergencies, pharmacists and other qualified persons for use in the preparation  
40 of antidotes, any information relative to formulas of products acquired by authority of section  
41 281.260.

281.260. 1. Every pesticide which is distributed, sold, offered for sale or held for sale

2 within this state, or which is delivered for transportation or transported in intrastate commerce  
3 or between points within this state through any point outside of this state, shall be registered in  
4 the office of the director, and the registration shall be renewed annually.

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

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

8 (2) The name of the pesticide;

9 (3) Classification of the pesticide; and

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

12 3. The registrant shall pay an annual fee of [fifteen] **one hundred twenty-five** dollars  
13 for each product registered in any calendar year or part thereof. [The] **Fifteen dollars of the** fee  
14 shall be deposited in the state treasury to the credit of the general revenue fund, **the balance of**  
15 **funds collected under the fee shall be deposited in the state treasury to the credit of the**  
16 **pesticide project fund established in section 281.217.** All such registrations shall expire on  
17 December thirty-first of any one year, unless sooner canceled. A registration for a special local  
18 need pursuant to subsection 6 of this section, which is disapproved by the federal government,  
19 shall expire on the effective date of the disapproval. **The one hundred twenty-five dollar**  
20 **pesticide registration fee shall become effective for pesticide registrations for calendar year**  
21 **2003.**

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

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

35 6. Provided the state complies with requirements of the federal government to register  
36 pesticides to meet special local needs, the director shall require that registrants comply with  
37 sections 281.210 to 281.310 and pertinent federal laws and regulations. Where two or more

38 pesticides meet the requirements of this subsection, one shall not be registered in preference to  
39 the other.

40 7. The director may require the submission of the complete formula of any pesticide to  
41 approve or deny product registration. If it appears to the director that the composition and  
42 efficacy of the pesticide is such as to warrant the proposed claims for it and if the pesticide and  
43 its labeling and other material required to be submitted comply with the requirements of sections  
44 281.210 to 281.310, [he] **the director** shall register the pesticide.

45 8. **The director, after opportunity for hearing, may deny, cancel, suspend, or revoke**  
46 **a pesticide registration if, after consideration to pertinent research findings and**  
47 **recommendations of other agencies of this state, the federal government or other reliable**  
48 **sources, the pesticide may cause damage or injury, or is considered dangerous or harmful**  
49 **to persons or the environment.**

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

51 (1) Issue an experimental use permit to any person applying for an experimental use  
52 permit if [he] **the director** determines that the applicant needs such permit in order to  
53 accumulate information necessary to register a pesticide [under] **pursuant to** sections [263.269  
54 to 263.380] **281.210 to 281.310**. An application for an experimental use permit may be filed at  
55 the time of or before or after an application for registration is filed;

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

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

61 [9.] **10.** If it does not appear to the director that the pesticide is such as to warrant the  
62 proposed claims for it or if the pesticide and its labeling and other material required to be  
63 submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws,  
64 [he] **the director** shall notify the registrant of the manner in which the pesticide, labeling, or  
65 other material required to be submitted fail to comply with sections 281.210 to 281.310 or with  
66 federal laws so as to afford the registrant an opportunity to make the necessary corrections. If,  
67 upon receipt of such notice, the registrant insists that such corrections are not necessary and  
68 requests in writing that the pesticide be registered or, in the case of a pesticide that is already  
69 registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to  
70 determine if the pesticide in question should be registered or canceled. If, after such hearing, it  
71 is determined that the pesticide should not be registered or that its registration should be  
72 canceled, the director may refuse registration or cancel an existing registration until the required  
73 label changes are accomplished. If the pesticide is shown to be in compliance with sections

74 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from  
75 administrative decisions by the director will be taken in accordance with sections 536.100 to  
76 536.140, RSMo.

77 [10.] **11.** Notwithstanding any other provision of sections 281.210 to 281.310,  
78 registration is not required in the case of a pesticide shipped from one plant or warehouse within  
79 this state to another plant or warehouse within this state when such plants are operated by the  
80 same persons.

81 [11.] **12.** The director shall not make any lack of essentiality a criterion for denying  
82 registration of a pesticide except where none of the labeled uses are present in the state. Where  
83 two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be  
84 registered in preference to the other.