

FIRST REGULAR SESSION

HOUSE BILL NO. 114

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MYERS, WHORTON (Co-sponsors), MOORE AND KING.

Pre-filed December 19, 2002, and copies ordered printed.

TED WEDEL, Chief Clerk

0482L.021

AN ACT

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

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

Section A. Sections 281.240 and 281.260, RSMo, are repealed and three new sections
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". In addition to the annual registration fee imposed by section 281.260, an annual
3 registration fee of fifty-five dollars shall be imposed for each product registered pursuant
4 to section 281.260, and credited to the pesticide project fund. The moneys in the fund shall
5 be used for the following purposes:**

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

8 **(2) Up to eighty percent for distribution to projects that directly apply to: pesticide
9 education efforts; pesticide applicator training; pesticide and water quality monitoring
10 activities; household and agricultural pesticide and pesticide container disposal initiatives;
11 integrated pest management (IPM) practices; and applied research on IPM and water
12 quality improvement programs at the University of Missouri agricultural research stations;**

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

15 **3. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining**

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

16 in the fund at the end of the biennium shall not revert to the credit of the general revenue
17 fund.

18 4. 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 recipient and the director.

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

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

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

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

33 9. If the balance of the pesticide project fund exceeds two and one-half million
34 dollars in unobligated funds during any calendar year, fees required for registration of
35 pesticides will be reduced to fifteen dollars the following registration period. When the
36 fund attains a balance of one million dollars, the registration fee will be increased to fifty-
37 five dollars the following or successive registration period.

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

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

45 12. Any moneys remaining in the pesticide project fund on January 1, 2008, shall
46 revert to the credit of the general revenue fund and the pesticide project fund shall be
47 abolished.

48 13. The provisions of this section shall expire on January 1, 2008.

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 shall not be considered a minor change and
12 shall 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 dollars for each product registered in
13 any calendar year or part thereof. The fee shall be deposited in the state treasury to the credit of
14 the general revenue fund. All such registrations shall expire on December thirty-first of any one
15 year, unless sooner canceled. A registration for a special local need pursuant to subsection 6 of
16 this section, which is disapproved by the federal government, shall expire on the effective date
17 of the disapproval.

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

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

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

35 the other.

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

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

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

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

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

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

57 [9.] **10.** If it does not appear to the director that the pesticide is such as to warrant the
58 proposed claims for it or if the pesticide and its labeling and other material required to be
59 submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws,
60 [he] **the director** shall notify the registrant of the manner in which the pesticide, labeling, or
61 other material required to be submitted fail to comply with sections 281.210 to 281.310 or with
62 federal laws so as to afford the registrant an opportunity to make the necessary corrections. If,
63 upon receipt of such notice, the registrant insists that such corrections are not necessary and
64 requests in writing that the pesticide be registered or, in the case of a pesticide that is already
65 registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to
66 determine if the pesticide in question should be registered or canceled. If, after such hearing, it
67 is determined that the pesticide should not be registered or that its registration should be
68 canceled, the director may refuse registration or cancel an existing registration until the required
69 label changes are accomplished. If the pesticide is shown to be in compliance with sections
70 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from

71 administrative decisions by the director will be taken in accordance with sections 536.100 to
72 536.140, RSMo.

73 [10.] **11.** Notwithstanding any other provision of sections 281.210 to 281.310,
74 registration is not required in the case of a pesticide shipped from one plant or warehouse within
75 this state to another plant or warehouse within this state when such plants are operated by the
76 same persons.

77 [11.] **12.** The director shall not make any lack of essentiality a criterion for denying
78 registration of a pesticide except where none of the labeled uses are present in the state. Where
79 two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be
80 registered in preference to the other.