

HOUSE BILL NO. 420

INTRODUCED BY LAKE, BARRETT, JACKSON, KEANE, LAMBERT, MENDENHALL, MORGAN,
PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT DECREASING THE FEE PAID BY COMMERCIAL APPLICATORS, PESTICIDE DEALERS, AND GOVERNMENT AGENCIES FOR THE WASTE PESTICIDE AND PESTICIDE CONTAINER COLLECTION, DISPOSAL, AND RECYCLING PROGRAM; REPEALING THE TERMINATION OF THE WASTE PESTICIDE AND PESTICIDE CONTAINER COLLECTION, DISPOSAL, AND RECYCLING PROGRAM, THE ASSESSMENT OF FEES FOR FUNDING THE PROGRAM, AND THE DEPOSIT AND USE OF FEES BY THE DEPARTMENT OF AGRICULTURE; AMENDING SECTIONS 80-8-203, 80-8-207, AND 80-8-213, MCA; REPEALING SECTION 14, CHAPTER 465, LAWS OF 1993, AND CHAPTER 362, LAWS OF 1999; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-8-203, MCA, is amended to read:

"80-8-203. Commercial applicator. (1) It is unlawful for a person to engage in the business of applying pesticides for another without a pesticide applicator's license obtained from the department of agriculture. An application for a pesticide applicator's license must be accompanied by a fee of \$45. The provisions of this subsection do not apply to a person employed only to operate equipment used for the application of a pesticide if the person has no financial interest or other control over the equipment other than its day-to-day mechanical operation for the purpose of applying any pesticide.

(2) Public utility applicators must be licensed in the same manner as commercial applicators, provided that public utility operators working under public utility applicators are not required to be licensed except as provided in 80-8-205.

(3) A veterinarian licensed as provided in Title 37, chapter 18, part 3, is not required to be licensed to apply nonrestricted pesticides, provided that the veterinarian registers with the department each year. The veterinarian must meet all other requirements and rules of the Montana Pesticides Act. The department shall consider the professional licensing requirements for veterinarians when adopting rules.

(4) An applicator is responsible for the use of any pesticide by an operator or employee under the applicator's supervision or employment.

(5) The department shall assess an additional annual license fee of ~~\$30~~ \$10 on applicators to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year. Fees collected under this subsection must be deposited in the state special revenue account pursuant to 80-8-112. (~~Subsection (5) terminates December 31, 2003--sec. 1, Ch. 362, L. 1999.~~)"

Section 2. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) It is unlawful for a person to sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of its field personnel and salespeople selling pesticides within the state.

(2) The application for a license must be accompanied by a fee of \$45. Dealers applying for renewal of a license shall do so on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a \$25 late licensing fee.

(3) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(4) The department shall assess an additional annual license fee of ~~\$30~~ \$10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year. Fees collected under this subsection must be deposited in the state special revenue account pursuant to 80-8-112.

(5) Pharmacists licensed as provided for in 37-7-302 and 37-7-303, veterinarians licensed as provided for in 37-18-302 and 37-18-303, and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides, provided that the certified pharmacies and veterinarians register with the department each year.

However, the certified pharmacies and veterinarians shall meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules. (~~Subsection (4) terminates December 31, 2003--sec. 1, Ch. 362, L. 1999.~~)"

Section 3. Section 80-8-213, MCA, is amended to read:

"80-8-213. Government agencies. (1) All state agencies, municipal corporations, or any other governmental agencies are subject to the provisions of this chapter and rules adopted under this chapter concerning the application or sale of pesticides. Applicators and operators applying pesticides and dealers selling pesticides for agencies, municipal corporations, or any governmental agencies are subject to the provisions of 80-8-203 through 80-8-208.

(2) The department shall issue a limited commercial applicator's or dealer's license for an annual fee of \$50, which is valid only when an applicator or dealer is applying or selling pesticides for a state agency, municipal corporation, or any other governmental agency, provided that the jurisdictional health officer, state veterinarian, their duly authorized representatives, or governmental research personnel are exempt from this licensing requirement when applying pesticides to experimental areas.

(3) (a) A governmental agency shall pay for each of its first four employee applicators:

(i) an annual applicator's fee of \$50; and

(ii) an additional fee of ~~\$25~~ \$10 to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year.

(b) A governmental agency shall pay for each additional employee applicator:

(i) an annual applicator's fee of \$5; and

(ii) an additional fee of ~~\$15~~ \$10 to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year.

(c) A government agency may not be required to pay more than \$600 annually for the licensing of employees as applicators and operators.

(d) Fees collected pursuant to this subsection (3) for the purpose of funding the waste pesticide and

pesticide container collection, disposal, and recycling program must be deposited in the state special revenue account pursuant to 80-8-112.

(4) Government employees becoming certified applicators only to qualify for conducting pesticide education courses may not be charged a license fee but are limited to providing the courses. Government operators are subject to rules adopted pursuant to 80-8-205, including the license fee. (~~Subsections (3)(a)(ii); (3)(b)(ii), and (3)(d) terminate December 31, 2003--sec. 1, Ch. 362, L. 1999.)~~)"

NEW SECTION. Section 4. Repealer. Section 14, Chapter 465, Laws of 1993, and Chapter 362, Laws of 1999, are repealed.

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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