

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 550

Introduced by Preister, 5

Read first time January 12, 2001

Committee: Agriculture

A BILL

1 FOR AN ACT relating to pesticides; to amend sections 2-2635,
2 2-2638, 2-2639, and 2-2641, Reissue Revised Statutes of
3 Nebraska, and section 2-2634, Revised Statutes
4 Supplement, 2000; to define terms; to require notice and
5 notification of applications; to provide exemptions; to
6 provide duties and civil penalties; to change provisions
7 relating to fees; to provide for severability; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 9 of this act:

2 (1) Abutting property means any property that has any
3 boundary or boundary point in common with property on which
4 pesticide is to be applied;

5 (2) Authorized agency means a political subdivision that
6 has adopted ordinances or resolutions at least as stringent as
7 sections 1 to 9 of this act in order to implement and enforce its
8 own local pesticide notification regulations;

9 (3) Building operator means the owner, the owner's agent,
10 or the building manager of any public building or, in the case of a
11 public building which is leased to a tenant who is responsible for
12 the operation of the building, the tenant or the tenant's building
13 manager;

14 (4) Commercial lawn application means application of a
15 pesticide to the lawn of another person for hire or compensation;

16 (5) Department means the Department of Agriculture;

17 (6) Granular pesticide means any ground-applied solid
18 pesticide that is not a dust or powder;

19 (7) Pesticide means a substance or mixture of substances
20 intended to prevent, destroy, repel, or mitigate any pest or any
21 substance or mixture of substances intended for use as a plant
22 regulator, defoliant, or desiccant, including any biological
23 control agent. Pesticide does not include any article that is (a)
24 a new animal drug within the meaning of the Federal Food, Drug, and
25 Cosmetic Act, 21 U.S.C. 321v(2), that has been determined by the
26 United States Secretary of Health and Human Services to be a new
27 animal drug by regulation establishing conditions of use for the
28 article or (b) an animal feed within the meaning of the Federal

1 Food, Drug, and Cosmetic Act, 21 U.S.C. 321(w), bearing or
2 containing a new animal drug;

3 (8) Residential lawn application means the application of
4 general-use pesticides to ground, trees, or shrubs on property
5 owned by or leased to the individual making such application.

6 Residential lawn application does not include:

7 (a) Application of pesticides for the purpose of
8 producing an agricultural commodity;

9 (b) Application of pesticides around or near the
10 foundation of a building for the purpose of indoor pest control; or

11 (c) Application of pesticides by or on behalf of an
12 authorized agency, except that an authorized agency shall be
13 subject to the requirements of section 5 of this act when such
14 application is within one hundred feet of a dwelling,
15 multiple-family dwelling, public building, or public park; and

16 (9) Spot application of a pesticide means the application
17 of pesticide in a manually pressurized or nonpressurized container
18 of thirty-two fluid ounces or less to an area of ground less than
19 nine square feet.

20 Sec. 2. Every retail establishment that sells pesticides
21 for commercial or residential lawn application shall display a sign
22 meeting standards established by the department or an authorized
23 agency under section 8 of this act in a conspicuous place. Such
24 sign shall be placed as close as possible to the place where such
25 pesticides are displayed.

26 Sec. 3. At least forty-eight hours prior to any
27 commercial lawn application of a pesticide, the person or business
28 making such application shall supply written notice, as described

1 in rules and regulations adopted under section 10 of this act, to
2 the occupants of all dwellings on abutting property with a boundary
3 that is within one hundred fifty feet of the site of such
4 application and to owners, owners' agents, or other persons in a
5 position of authority for all other types of premises that are on
6 abutting property with a boundary that is within one hundred fifty
7 feet of the site of such application. The owner or owner's agent
8 of a multiple-family dwelling shall provide such written notice to
9 the occupants of such multiple-family dwelling. For all other
10 types of premises, the owner, owner's agent, or other person in a
11 position of authority shall post such written notice in a manner
12 specified by the department or the authorized agency.

13 Sec. 4. Section 3 of this act does not apply to:

14 (1) The use of an aerosol product with a directed spray,
15 in containers of eighteen fluid ounces or less, when used to
16 protect individuals from an imminent threat from stinging and
17 biting insects, including venomous spiders, bees, wasps, and
18 hornets;

19 (2) Application of a pesticide by direct injection into a
20 plant or the ground;

21 (3) Spot application of a pesticide;

22 (4) Application of antimicrobial pesticides and
23 antimicrobial products within the meaning of the Federal
24 Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136(mm) and
25 136q(h)(2);

26 (5) The use of nonvolatile insect or rodent bait in a
27 tamper-resistant container;

28 (6) The use of boric acid and disodium octaborate

1 tetrahydrate;

2 (7) The use of horticultural soap and oils that do not
3 contain synthetic pesticides or synergists;

4 (8) Application of a granular pesticide;

5 (9) Emergency application of a pesticide when necessary
6 to protect against an imminent threat to human health, except that
7 prior to any such emergency application, the person making such
8 emergency application shall make a good faith effort to supply the
9 written notice required under section 3 of this act. Upon making
10 an emergency application of a pesticide, the person making such
11 application shall notify the department or authorized agency, using
12 a form developed by the department or authorized agency for such
13 purposes. The form shall include the name of the person making the
14 emergency application, the pesticide business registration number
15 or certified applicator number of the person making the emergency
16 application, the location of the emergency application, the date of
17 the emergency application, the product name and United States
18 Environmental Protection Agency registration number of the
19 pesticide applied, the reason for the emergency application, and
20 such other information as the department or authorized agency deems
21 necessary.

22 Sec. 5. (1) All persons performing residential lawn
23 application on an area of more than one hundred square feet shall
24 affix markers to be placed within or along the perimeter of the
25 area where pesticides will be applied pursuant to the residential
26 lawn application. Such markers shall be placed so as to be clearly
27 visible to persons immediately outside the perimeter of such
28 property, shall be posted at least twelve inches above the ground,

1 and shall be at least four inches by five inches in size.

2 (2) The markers required in this section shall be in
3 place at least twenty-four hours prior to the residential lawn
4 application and on the day of the residential lawn application and
5 shall instruct persons not to enter the property and not to remove
6 the signs for a period of at least forty-eight hours. Such
7 instruction shall be printed in bold letters at least one inch
8 high.

9 Sec. 6. The department or authorized agency shall review
10 any emergency application form submitted pursuant to section 4 of
11 this act to ensure that the circumstances warranted the emergency
12 application. Such forms shall be kept on file by the department or
13 authorized agency for three years from the date of the emergency
14 application and shall be made available to any person upon request.

15 Sec. 7. The building operator of any public building who
16 personally applies or uses, or who contracts for or orders the
17 application within the interior of any public building of, any
18 pesticide requiring the direct supervision of a certified operator
19 or any pesticide which is sold solely for commercial applicator use
20 and is restricted to uses other than household use shall post a
21 conspicuous notice in such building at least forty-eight hours
22 prior to application in order to notify anyone entering or living
23 in such building that a pesticide is being or is going to be
24 applied. Such notice shall remain posted until forty-eight hours
25 following the application.

26 If such pesticide or pesticides are applied on a regular
27 basis or according to a schedule, such notice may be permanently
28 displayed and shall include the days or dates on which such

1 pesticide or pesticides are usually applied. If the pesticide or
2 pesticides are not applied on a regular basis or according to a
3 schedule or if the pesticides are applied on a day or date other
4 than the day or date contained on a permanently displayed notice,
5 notice of the application and the date thereof shall be posted
6 before the application of any pesticide and shall remain posted for
7 twenty-four hours following the application. Such notice shall
8 include (1) a notice of the location and hours during which any
9 person may obtain information concerning the pesticides applied or
10 to be applied and inspect and copy the material safety data sheet
11 and (2) one or more telephone numbers for the building operator at
12 which emergency information concerning the pesticides applied may
13 be obtained at any time during the day or night and on any day of
14 the year.

15 Sec. 8. The building operator shall make available, upon
16 request and within a reasonable time after the request, the name of
17 any pesticide used and a copy of the appropriate material safety
18 data sheet. If the pesticide is to be applied by a commercial
19 applicator, a certified operator, or a pesticide contractor, such
20 commercial applicator, certified operator, or pesticide contractor
21 shall provide material safety data sheets to the building operator
22 at the time the contract for service is entered or renewed. If any
23 additional pesticides are used after the contract for service is
24 entered, the commercial applicator, certified operator, or
25 pesticide contractor shall provide additional material safety data
26 sheets to the building operator.

27 A building operator shall retain for five years all
28 material safety data sheets and other documents furnished pursuant

1 to this section. A building operator shall retain statement of
2 information for two years.

3 Sec. 9. Sections 1 to 11 of this act do not apply in any
4 political subdivision which provides for the notification,
5 enforcement, and other requirements of such sections by resolution
6 or ordinance of the political subdivision at least as stringent as
7 the substantive provisions of such sections or any rule or
8 regulation adopted pursuant to such sections. A political
9 subdivision which meets the requirements of this section may also
10 assess fees to carry out the purposes of such sections.

11 Sec. 10. (1) The department or authorized agency shall
12 adopt and promulgate rules and regulations establishing:

13 (a) Uniform standards for a consumer pesticide use
14 information sign that shall be placed in retail establishments that
15 sell general-use pesticides for commercial or residential lawn
16 application. The sign shall contain the following information:

17 (i) A warning notice directing consumers to follow directions on
18 labels; (ii) a provision to inform the customer of the notice
19 requirements set forth in sections 1 to 9 of this act; and (iii) a
20 recommendation that the customer notify neighbors prior to the
21 application of pesticides so that such neighbors may take
22 precautions to avoid pesticide exposure;

23 (b) The content and form of the written notice required
24 by section 3 of this act which shall include, but need not be
25 limited to: (i) The address of the premises where application is
26 to be done; (ii) the name, telephone number, and pesticide business
27 registration number or certified applicator number of the person
28 providing the application; (iii) the specific date of each

1 pesticide application and two alternative dates to the proposed
2 date of application when, due to weather conditions, the pesticide
3 application of the proposed date is precluded; (iv) the product
4 name or names and the United States Environmental Protection Agency
5 registration number or numbers of the pesticide or pesticides to be
6 applied; and (v) a prominent statement that reads: "This notice is
7 to inform you of a pending pesticide application to neighboring
8 property. You may wish to take precautions to minimize pesticide
9 exposure to yourself, family members, pets, or family possessions.
10 Further information about the product or products being applied,
11 including any warnings that appear on the labels of such pesticide
12 or pesticides that are pertinent to the protection of humans,
13 animals, or the environment, can be obtained by calling the
14 National Pesticides Telecommunications Network at 1-800-858-7378."
15 The department or authorized agency shall review and revise as
16 necessary the telephone number required to appear in notices
17 pursuant to this section;

18 (c) The manner in which persons providing commercial lawn
19 application shall supply written notice as required under sections
20 1 to 11 of this act including, but not limited to, mailing or
21 leaving the notice with a responsible adult or in a conspicuous
22 location on the abutting property, the manner in which the owner or
23 owner's agent of a multiple-family dwelling under section 3 of this
24 act shall supply such written notice to the occupants of such
25 multiple-family dwelling pursuant to such section, and the manner
26 in which the owner, owner's agent, or other person in a position of
27 authority for all other premises covered under such section shall
28 supply such written notice. Such rules and regulations shall

1 specify a manner in which persons providing commercial lawn
2 applications may provide an option to occupants of dwellings to
3 decline further notice.

4 (2) The department or authorized agency shall prepare
5 public educational materials explaining the requirements of
6 sections 1 to 9 of this act and the health effects of lawn care
7 pesticides on humans and the environment.

8 Sec. 11. (1) Any person who violates sections 1 to 10 of
9 this act or any rule, regulation or order issued under such
10 sections shall be liable for a civil penalty not to exceed five
11 hundred dollars for each offense, and in the case of a continuing
12 violation, each day of violation shall constitute a separate
13 offense. A person shall also be subject to a restraining order, a
14 temporary or permanent injunction, or a mandatory injunction if
15 such person has violated, is violating, or is threatening to
16 violate such sections, the rules and regulations adopted and
17 promulgated pursuant to such sections, or any final order of the
18 department. The district court of the county where the violation
19 has occurred, is occurring, or is about to occur shall have
20 jurisdiction to grant such relief upon good cause shown. Relief
21 may be granted notwithstanding the existence of any other remedy at
22 law and shall be granted without bond.

23 (2) It shall be the duty of the Attorney General or the
24 county attorney of the county in which the violation of such
25 sections has occurred, is occurring, or is about to occur, when
26 notified by the department or authorized agency of such violation
27 or threatened violation, to pursue appropriate proceedings without
28 delay pursuant to this section.

1 (3) Any civil penalty assessed under this section and
2 unpaid shall constitute a debt to the state which may be collected
3 in the manner of a lien foreclosure or sued for and recovered in a
4 proper form of action in the name of the state in the district
5 court of the county in which the violator resides or owns property.
6 An action to collect a civil penalty shall be brought within two
7 years of the alleged violation providing the basis of the penalty,
8 except that if the cause of action is not discovered and could not
9 be reasonably discovered within the two-year period, the action may
10 be commenced within two years after the date of discovery or after
11 the date of discovery of facts which would reasonably lead to
12 discovery, whichever is earlier. The department shall, within
13 thirty days after receipt of the civil penalty, remit the civil
14 penalty to the State Treasurer for credit to the permanent school
15 fund.

16 Sec. 12. The Pesticide Enforcement Fund is created. The
17 fund shall consist of money credited pursuant to sections 2-2634,
18 2-2635, 2-2638, 2-2639, and 2-2641. Money in the fund shall be
19 used to enforce and administer the Pesticide Act and sections 1 to
20 11 of this act. Any money in the fund available for investment
21 shall be invested by the state investment officer pursuant to the
22 Nebraska Capital Expansion Act and the Nebraska State Funds
23 Investment Act.

24 Sec. 13. Section 2-2634, Revised Statutes Supplement,
25 2000, is amended to read:

26 2-2634. (1) As a condition to registration or renewal of
27 registration as required by sections 2-2628 to 2-2633, an applicant
28 shall pay to the department a fee of ~~ninety~~ one hundred fifty

1 dollars for each pesticide to be registered, except that the fee
2 may be increased or decreased by the director after a public
3 hearing is held outlining the reason for any proposed change in the
4 fee. In no event shall such fee exceed ~~one hundred fifty two~~
5 hundred dollars for each pesticide to be registered. All fees
6 collected shall be remitted to the State Treasurer for credit as
7 follows:

8 (a) Thirty dollars of each such fee to the Noxious Weed
9 Cash Fund as provided in section 2-958;

10 (b) Sixty dollars of each such fee to the Buffer Strip
11 Incentive Fund as provided in section 2-5106; ~~and~~

12 (c) The additional funds collected due to the changes
13 made to this section by this legislative bill to the Pesticide
14 Enforcement Fund; and

15 (d) The remainder, if any, to the Pesticide
16 Administrative Cash Fund.

17 (2) If a person fails to apply for renewal of
18 registration before January 1 of any year, such person, as a
19 condition to renewal, shall pay a late registration fee equal to
20 twenty-five percent of the fee due and owing per month, not to
21 exceed one hundred percent, for each product to be renewed in
22 addition to the renewal fee.

23 Sec. 14. Section 2-2635, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 2-2635. (1) Except as provided in subsection (2) of this
26 section, a person shall not distribute at wholesale or retail or
27 possess pesticides with an intent to distribute them without a
28 pesticide dealer license for each distribution location. Any

1 manufacturer, registrant, or distributor who has no pesticide
2 dealer outlet licensed within this state and who distributes such
3 pesticides directly into this state shall obtain a pesticide dealer
4 license for his, her, or its principal out-of-state location or
5 outlet.

6 (2) The requirements of subsection (1) of this section
7 shall not apply to:

8 (a) A commercial applicator or noncommercial applicator
9 licensed under sections 2-2636 to 2-2642 who uses restricted-use
10 pesticides only as an integral part of a pesticide application
11 service and does not distribute any unapplied pesticide;

12 (b) A federal, state, county, or municipal agency using
13 restricted-use pesticides only for its own program;

14 (c) Persons who sell only pesticide products in
15 containers holding fifty pounds or less by weight or one gallon or
16 less by volume and do not sell any restricted-use pesticides or
17 bulk pesticides; or

18 (d) Persons who sell only general-use specialty
19 pesticides.

20 (3) A pesticide dealer may distribute restricted-use
21 pesticides only to a certified applicator, a licensed pesticide
22 dealer, or, under rules and regulations adopted by the department,
23 a person who is not a certified applicator for application by a
24 certified applicator.

25 (4) A pesticide dealer license shall expire on December
26 31 of each year, unless it is suspended or revoked before that
27 date. Such license shall not be transferable to another person or
28 location and shall be prominently displayed to the public in the

1 pesticide dealer's place of business.

2 (5) If the pesticide dealer has had a license suspended
3 or revoked, or has otherwise had a history of violations of the
4 Pesticide Act, the department may require an additional
5 demonstration of dealer qualifications prior to issuance or renewal
6 of a license to such person.

7 (6) Application for an initial pesticide dealer license
8 shall be submitted to the department within thirty days after
9 January 1, 1994, or prior to commencing business as a pesticide
10 dealer. Application for renewal of a pesticide dealer license
11 shall be submitted to the department by January 1 of each year.
12 All applications shall be accompanied by an annual license fee of
13 ~~fifty~~ seventy-five dollars. The fee may be increased or decreased
14 by the director after a public hearing is held outlining the reason
15 for any proposed change in the fee. In no event shall the fee
16 exceed one hundred fifty dollars per license. Application shall be
17 on a form prescribed by the department and shall include the full
18 name of the person applying for such license. If such applicant is
19 an individual, the application shall include the applicant's social
20 security number. If such applicant is a partnership, limited
21 liability company, association, corporation, or organized group of
22 persons, the full name of each member of the firm, partnership, or
23 limited liability company or of the principal officers of the
24 association or corporation shall be given on the application. Such
25 application shall further state the address of each outlet to be
26 licensed, the principal business address of the applicant, the name
27 of the person domiciled in this state authorized to receive and
28 accept service of summons of legal notices of all kinds for the

1 applicant, and any other necessary information prescribed by the
2 department.

3 An applicant located outside this state shall file with
4 the department a written instrument designating a resident agent
5 for service of process in actions taken in the administration and
6 enforcement of the act. In lieu of designating a resident agent,
7 the applicant may designate the Secretary of State as the recipient
8 of service of process for the applicant in this state.

9 If an application for renewal of a pesticide dealer
10 license is not filed before January 1 of the year for which the
11 license is to be issued, an additional fee equal to twenty-five
12 percent of the fee due and owing per month, not to exceed one
13 hundred percent, shall be paid by the applicant before the license
14 may be issued.

15 An application for a duplicate pesticide dealer's license
16 shall be accompanied by a nonrefundable application fee of ten
17 dollars.

18 (7) Each licensed pesticide dealer shall be responsible
19 for the acts of each person employed by him or her in the
20 solicitation and distribution of pesticides and all claims and
21 recommendations for use of pesticides. The dealer's license shall
22 be subject to denial, suspension, modification, or revocation after
23 a hearing for any violation of the act, whether committed by the
24 dealer or by the dealer's officer, agent, or employee.

25 (8) The department shall require each pesticide dealer to
26 maintain records of the dealer's purchases and distribution of all
27 restricted-use pesticides and may require such records to be kept
28 separate from other business records. The department may prescribe

1 by rules and regulations the information to be included in the
2 records. The dealer shall keep such records for a period of three
3 years and shall provide the department access to examine such
4 records and a copy of any record on request.

5 (9) The additional funds collected under this section as
6 a result of changes made to this section by this legislative bill
7 shall be remitted to the State Treasurer for credit to the
8 Pesticide Enforcement Fund.

9 Sec. 15. Section 2-2638, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-2638. (1) An individual who applies restricted-use
12 pesticides to the land of another person for hire or compensation
13 shall apply to the department for a commercial applicator license
14 issued for the categories and subcategories in which the pesticide
15 application is to be made.

16 (2) Any person who applies lawn care or structural pest
17 control pesticides to the land of another person for hire or
18 compensation shall apply to the department for a commercial
19 applicator license, regardless of whether such business applies any
20 restricted-use pesticide.

21 (3) Application for an original or renewal commercial
22 applicator license shall be on forms prescribed by the department.
23 The application shall include information as required by the
24 director and be accompanied by a license fee of ~~ten~~ seventy-five
25 dollars. If the applicant is an individual, the application shall
26 include the applicant's social security number. The fee may be
27 increased or decreased by the director after a public hearing is
28 held outlining the reasons for any proposed change. In no event

1 shall the fee exceed ~~twenty-five~~ one hundred fifty dollars per
2 license. The additional funds collected under this section as a
3 result of changes made to this section by this legislative bill
4 shall be remitted to the State Treasurer for credit to the
5 Pesticide Enforcement Fund.

6 (4) The department may deny a commercial applicator
7 license if it has determined that:

8 (a) The applicant has had a license as a certified
9 applicator issued by this state or another state revoked within the
10 last two years;

11 (b) The applicant has been unable to satisfactorily
12 fulfill licensing requirements;

13 (c) The applicant for any other reason cannot be expected
14 to be able to fulfill the provisions of the Pesticide Act
15 applicable to the category for which application is made; or

16 (d) An applicant for an original commercial applicator
17 license has not passed an examination under sections 2-2637 and
18 2-2640.

19 (5) An individual to whom a commercial applicator license
20 is issued shall be a certified applicator authorized to use
21 restricted-use pesticides in the categories and subcategories in
22 which the individual is licensed.

23 (6) As a condition to issuance of a commercial applicator
24 license, an applicant located outside this state shall file with
25 the department a written instrument designating a resident agent
26 for service of process in actions taken in the administration and
27 enforcement of the act. In lieu of designating a resident agent,
28 the applicant may designate in writing the Secretary of State as

1 the recipient of service of process for the applicant in this
2 state.

3 (7) Any person who operates a business that applies
4 pesticides to the land of another person for hire or compensation
5 shall be responsible for the acts of each certified applicator
6 employed by him or her in the application of a pesticide. Such
7 person shall be subject to the same penalties and violations as the
8 applicator.

9 Sec. 16. Section 2-2639, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-2639. (1) A noncommercial applicator shall apply to
12 the department for a noncommercial applicator license issued for
13 the categories and subcategories in which the pesticide application
14 is to be made.

15 (2) Application for an original or renewal noncommercial
16 applicator license shall be on forms prescribed by the department.
17 If the applicant is an individual, the application shall include
18 the applicant's social security number. The department shall ~~not~~
19 charge a noncommercial applicant a license fee of thirty dollars.
20 The fee may be increased or decreased by the director after a
21 public hearing is held outlining the reasons for any proposed
22 change. In no event shall the fee exceed ninety dollars. Such
23 fees shall be remitted to the State Treasurer for credit to the
24 Pesticide Enforcement Fund.

25 (3) The director shall not issue an original
26 noncommercial applicator license before the applicant has passed an
27 examination under sections 2-2637 and 2-2640.

28 (4) A person to whom a noncommercial applicator license

1 is issued shall be a certified applicator authorized to use
2 restricted-use pesticides in the categories and subcategories in
3 which the individual is licensed.

4 (5) As a condition to issuance of a noncommercial
5 applicator license, an applicant located outside this state shall
6 file with the department a written instrument designating a
7 resident agent for service of process in actions taken in the
8 administration and enforcement of the Pesticide Act. In lieu of
9 designating a resident agent the applicant may designate in writing
10 the Secretary of State as the recipient of service of process for
11 the applicant in this state.

12 Sec. 17. Section 2-2641, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 2-2641. (1) A person shall be deemed to be a private
15 applicator if the person uses a restricted-use pesticide for the
16 purpose of producing an agricultural commodity:

17 (a) On property owned or rented by the person or person's
18 employer or under the person's general control; or

19 (b) On the property of another person if applied without
20 compensation other than the trading of personal services between
21 producers of agricultural commodities.

22 (2) An employee shall qualify as a private applicator
23 under subdivision (1)(a) of this section only if he or she provides
24 labor for the pesticide application but does not provide the
25 necessary equipment or pesticides.

26 (3) Every person applying for a license as a private
27 applicator shall (a) undertake a training session approved by the
28 department or (b) pass an examination showing that the person is

1 properly qualified to perform functions associated with pesticide
2 application to a degree directly related to the nature of the
3 activity and the associated responsibility. If the applicant is an
4 individual, the application shall include the applicant's social
5 security number.

6 (4) The department shall ~~not~~ charge a license fee of
7 seventy-five dollars for a private applicator license. The fee may
8 be increased or decreased by the director after a public hearing is
9 held outlining the reasons for any proposed change. In no event
10 shall the fee exceed one hundred fifty dollars. Such fees shall be
11 remitted to the State Treasurer for credit to the Pesticide
12 Enforcement Fund.

13 Sec. 18. If any section in this act or any part of any
14 section is declared invalid or unconstitutional, the declaration
15 shall not affect the validity or constitutionality of the remaining
16 portions.

17 Sec. 19. Original sections 2-2635, 2-2638, 2-2639, and
18 2-2641, Reissue Revised Statutes of Nebraska, and section 2-2634,
19 Revised Statutes Supplement, 2000, are repealed.