



## 2021 South Dakota Legislature

# House Bill 1202

Introduced by: **Representative Keintz**

1 **An Act to require that commercial pesticide applicators provide proof of financial**  
 2 **responsibility.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 38-21-17 be AMENDED.

5 **38-21-17. Commercial applicator license--Annual fee--Penalty.**

6 No person may perform any of the following acts without a commercial applicator's  
 7 license issued by the secretary, unless exempt under the provisions of this chapter:

- 8 (1) Engage in the business of applying pesticides to the lands of another;  
 9 (2) Advertise as being in the business of applying pesticides to the lands of another at  
 10 any time;  
 11 (3) Apply pesticides while in the performance of duties as a governmental employee;  
 12 or  
 13 (4) Otherwise act as a commercial applicator.

14 ~~The secretary shall require a fee of thirty-five dollars for each~~ Before issuing a commercial  
 15 applicator license issued, the secretary shall require a fee in the amount of thirty-five  
 16 dollars and proof of compliance with the financial responsibility provisions set forth in §  
 17 38-21-17.2.

18 A violation of this section is a Class 2 misdemeanor. In addition to any criminal  
 19 penalty, any person who violates this section is subject to a civil penalty not to exceed  
 20 five thousand dollars per violation imposed by the circuit court. Any civil penalty collected  
 21 shall be deposited into the state general fund.

22 **Section 2.** That a NEW SECTION be added:

1           **38-21-17.2. Commercial applicator--Proof of financial responsibility--**

2           **Exceptions.**

3           The secretary may not issue a commercial applicator certificate unless the applicant  
4 furnishes proof of financial responsibility. Financial responsibility must be maintained, at  
5 a minimum, in the amount of one hundred thousand dollars. Financial responsibility may  
6 be demonstrated by a notarized letter from an officer of a financial institution or from a  
7 certified public accountant, attesting to the existence of net assets equal to at least one  
8 hundred thousand dollars, or by a performance bond or a general liability insurance policy.

9           The performance bond or insurance policy must contain a provision requiring the  
10 issuing company to notify the secretary at least ten days before the effective date of  
11 cancellation, termination, or other modification of the bond or insurance policy.

12           When requested by the secretary, a commercial applicator shall immediately  
13 furnish proof of compliance with this section. If the applicator is unable to furnish the  
14 required proof, the secretary may stop a pesticide application and not allow resumption  
15 until the applicator furnishes proof of compliance.

16           The secretary shall immediately suspend the certification of a commercial  
17 applicator who fails to maintain the financial responsibility standards of this section. An  
18 application for reinstatement of a certificate suspended under this section must be  
19 accompanied by proof that any judgment previously rendered against the applicant has  
20 been satisfied.

21           This section does not apply to:

22           (1) A rancher who must obtain a commercial applicator certificate for controlling  
23 noxious weeds on federal acreage, as a condition of a federal grasslands lease;

24           (2) A grazing association and its members, if either the association or any member  
25 must obtain a commercial applicator certificate for controlling noxious weeds on  
26 the leased federal acreage as a condition of a federal grasslands lease;

27           (3) A person who must be certified in the right-of-way category;

28           (4) A commercial applicator who controls noxious weeds on grassland, land producing  
29 tame hay, or other lands not devoted to the production of an annual crop; or

30           (5) An employee of a commercial applicator, if the commercial applicator complies with  
31 this section.