

## 2021 South Dakota Legislature

**House Bill 1202****AMENDMENT 1202C FOR THE INTRODUCED BILL**

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-license~~ unless the  
4           applicant ~~furnishes-provides~~ proof of financial responsibility. Financial responsibility must  
5           be maintained, at a minimum, in the amount of one hundred thousand dollars. Financial  
6           responsibility may be demonstrated by a ~~notarized letter from an officer of a financial~~  
7           ~~institution or from a certified public accountant, attesting to the existence of net assets~~  
8           ~~equal to at least one hundred thousand dollars, or by a performance surety~~ bond or a  
9           general liability insurance policy.

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

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

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

22          This section does not apply to:

23          (1) A ~~rancher-person~~ who must obtain a commercial applicator ~~certificate-license~~ for  
24          controlling noxious weeds on federal acreage, as a condition of a federal grasslands  
25          lease;

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

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

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

32          (2) A governmental employee applying pesticides in an official capacity; or

33          ~~(5)~~(3) An employee of a commercial applicator, if the commercial applicator complies with  
34          this section.