

## 2020 South Dakota Legislature

# Senate Bill 24

### AMENDMENT 24D FOR THE SENATE AGRICULTURE AND NATURAL RESOURCES BILL

1 **An Act to revise the fees for pesticide registration, private applicator licenses,**  
 2 **commercial applicator licenses, and pesticide dealer licenses.**

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

4 **Section 1.** That § 38-20A-4 be AMENDED:

5 **38-20A-4. Pesticides--Sale or distribution--Registration--Contents--Fees--**  
 6 **Cancellation.**

7 Before any person whose name or brand name appears on a pesticide may  
 8 distribute, sell, or offer for sale or distribution in this state any pesticide, the person shall  
 9 file with the secretary of agriculture an application for the a registration of the pesticide.  
 10 Each ~~application~~ registration shall include the following:

- 11 (1) The name and address of the ~~applicant~~ registrant and the name and address of the  
 12 person whose name will appear on the label, if other than the ~~applicant~~ registrant;
- 13 (2) The name of the pesticide;
- 14 (3) One complete copy of the labeling accompanying the pesticide and a statement of  
 15 all claims to be made for ~~it~~ the pesticide, including directions for use;
- 16 (4) If requested by the secretary, efficacy, toxicity, residue, and any other data  
 17 necessary to determine if the pesticide will perform its intended function without  
 18 unreasonable adverse effects on the environment;
- 19 (5) The classification or lack of classification and general use or restricted use of the  
 20 pesticide; and
- 21 (6) An annual ~~application~~ registration fee of ~~one hundred twenty one hundred~~ sixty  
 22 sixty-five dollars.

23 Each registration is valid for one year and expires on June thirtieth. The registration  
 24 may not be transferred. A fee equal to fifty percent of the ~~application~~ registration fee shall  
 25 be applied to any late renewal. Each pesticide ~~application~~ registration fee is nonrefundable.

1 If a pesticide is no longer available for use due to a cancellation or suspension order  
 2 of the United States Environmental Protection Agency, it is not subject to registration  
 3 requirements. If the holder of a pesticide registration cancels the registration, the pesticide  
 4 shall ~~complete a two-year discontinuance period~~ be discontinued within two years. During  
 5 the discontinuance period, the annual ~~application~~ registration fee shall be paid.

6 **Section 2.** That § 38-20A-59 be AMENDED:

7 **38-20A-59. Registration fees--Distribution.**

8 The annual ~~application~~ registration fee for each pesticide registered in § 38-20A-4  
 9 shall be distributed as follows:

- 10 (1) ~~Twenty-Forty-five~~ dollars shall be deposited in the pesticide regulatory fund created  
 11 in § 38-21-57;
- 12 (2) Thirty-three dollars and seventy-five cents shall be deposited in the weed and pest  
 13 fund created in § 38-22-35;
- 14 (3) Twenty-one dollars and twenty-five cents shall be deposited in the public lands  
 15 weed and pest fund created in § 38-20A-58;
- 16 (4) Fifteen dollars shall be deposited within the agricultural experiment station pursuant  
 17 to chapter 13-58;
- 18 (5) Ten dollars shall be deposited within the cooperative extension service pursuant to  
 19 chapter 13-54; and
- 20 (6) ~~Twenty-Forty~~ dollars shall be deposited in the pesticide recycling and disposal fund  
 21 created in § 38-20A-56.

22 The late renewal fee in § 38-20A-4 shall be divided equally among the weed and pest  
 23 fund created in § 38-22-35, the pesticide regulatory fund created in § 38-21-57, and the  
 24 public lands weed and pest fund created in § 38-20A-58.

25 **Section 3.** That § 38-21-17 be AMENDED:

26 **38-21-17. Commercial applicator license--Annual fee--Violation as**  
 27 **misdemeanor--Civil penalty.**

28 No person may ~~engage~~ perform any of the following acts without a commercial  
 29 applicator's license issued by the secretary, unless exempt under the provisions of this  
 30 chapter:

- 31 (1) Engage in the business of applying pesticides to the lands of another, ~~advertise;~~  
 32 (2) Advertise as being in the business of applying pesticides to the lands of another at  
 33 any time, ~~apply;~~

1 (3) Apply pesticides while in the performance of duties as a governmental employee  
2 or otherwise; or

3 (4) Otherwise act as a commercial applicator without an applicator's license issued by  
4 the secretary of agriculture, unless exempted under the provisions of this chapter.

5 The secretary shall require a fee of ~~twenty-five~~ thirty-five dollars for each commercial  
6 applicator license issued. The secretary of agriculture shall issue an applicator license to  
7 government employees without a license fee. The fee exempt license is valid only when  
8 the applicator is applying pesticides in the course of employment for the governmental  
9 entity. Any A violation of this section is a Class 2 misdemeanor. In addition to any criminal  
10 penalty, any person who violates this section is subject to a civil penalty not to exceed  
11 five thousand dollars per violation imposed by the circuit court. Any civil penalty collected  
12 shall be deposited into the state general fund.

13 **Section 4.** That a NEW SECTION be added:

14 **38-21-17.1. Commercial applicator's license--Expiration.**

15 A commercial applicator's license shall expire on the last day of February of the  
16 second year following the year of issuance unless the license is revoked before the  
17 expiration by the secretary, as provided in § 38-21-44.

18 **Section 5.** That § 38-21-23 be AMENDED:

19 **38-21-23. Private applicator's license--Requirement--Fee--Promulgation of**  
20 **rules--Penalty for violation.**

21 No private applicator may use any pesticide without a license and without first  
22 complying with the certification requirements determined by the secretary of agriculture  
23 as necessary to prevent unreasonable adverse effects on the environment, including injury  
24 to the applicator or other persons, for that specific pesticide use. The secretary may  
25 require a license fee, to be established by in rules promulgated pursuant to chapter 1-26  
26 not to exceed five twenty-five dollars for each certification. Any person who violates this  
27 section is subject to a civil penalty not to exceed five thousand dollars per violation  
28 imposed by the circuit court. Any civil penalty collected shall be deposited into the state  
29 general fund.

30 **Section 6.** That a NEW SECTION be added:

1           **38-21-23.1. Private applicator's license--Expiration.**

2           A private applicator's license shall expire on the last day of February of the third  
3           year following the year of issuance unless the license is revoked before the expiration by  
4           the secretary, as provided for in § 37-21-44.

5           **Section 7.** That § 38-21-26 be REPEALED.

6           **38-21-26. Expiration of applicator's license.**

7           **Section 8.** That § 38-21-33.5 be AMENDED:

8           **38-21-33.5. Pesticide dealer's license--Fee--Form of application.**

9           ~~Application~~An application for a pesticide dealer's license shall be accompanied by  
10           a fifty-seventy-five dollar license fee and shall be on a form prescribed by the secretary ~~of~~  
11           agriculture.

12           **Section 9.** That a NEW SECTION be added:

13           **38-21-33.9. Pesticide dealer's license--Expiration.**

14           A pesticide dealer's license shall expire on the last day of February of the second  
15           year following the year of issuance unless the license is revoked before the expiration by  
16           the secretary, as provided for in § 38-21-44.

17           **Section 10.** That § 38-21-43 be REPEALED.

18           **38-21-43. Penalty for late renewal.**

19           **Section 11.** That § 38-21-51 be AMENDED:

20           **38-21-51. Administration and enforcement of chapter--Promulgation of**  
21           **rules.**

22           ~~The secretary of agriculture may establish rules promulgated~~ may promulgate rules  
23           pursuant to chapter 1-26 ~~concerning~~ providing for:

- 24           (1) The inspection of storage and disposal areas;
- 25           (2) The inspection of application equipment and equipment storage areas;
- 26           (3) The establishment of restricted pesticide uses or methods of distribution;
- 27           (4) Standards for the use, transportation, storage, handling, and disposal of pesticides  
28           or pesticide containers, rinsate, and application equipment;
- 29           (5) The reporting of pesticide accidents and incidents;

- 1 (6) Standards for the certification of applicators of pesticides;
- 2 (7) Standards for the examination and testing of applicators of pesticides;
- 3 (8) The establishment of fees for a private applicator certification applicator's license  
4 not to exceed five twenty-five dollars per certification license;
- 5 (9) Pesticide applicator reporting and record keeping requirements;
- 6 (10) The establishment of state ~~restricted-use~~ restricted-use pesticides for designated  
7 areas within the state;
- 8 (11) Pesticide dealers reporting and record keeping requirements;
- 9 (12) The establishment of certification categories and sub-categories;
- 10 (13) The classification or sub-classification of ~~certificates or licenses~~; and
- 11 (14) The use of pesticides through irrigation systems.

12 **Section 12.** That § 38-21-57 be AMENDED:

13 **38-21-57. Pesticide regulatory fund--Administration and uses--**  
14 **Expenditures.**

15 Funds collected pursuant to §§ 38-21-17, and 38-21-33.5, ~~and 38-21-43~~ shall be  
16 deposited with the state treasurer in a special revenue fund known as the pesticide  
17 regulatory fund. This fund shall consist of moneys from public and private sources  
18 including legislative appropriations, federal grants, gifts, and the fees received pursuant  
19 to this chapter. The fund shall be maintained separately and be administered by the  
20 department in order to defray the expenses of all activities associated with administering  
21 the pesticide program. Expenditures from the fund shall be appropriated through the  
22 normal budget process. Unexpended funds and interest shall remain in the fund until  
23 appropriated by the Legislature.