

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1159

Introduced by Stinner, 48.

Read first time January 22, 2020

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to the Pesticide Act; to amend section 2-2642,
- 2 Revised Statutes Supplement, 2019; to change noncertified applicator
- 3 pesticide use restrictions; to provide for unlimited license
- 4 examination attempts; to harmonize provisions; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-2642, Revised Statutes Supplement, 2019, is
2 amended to read:

3 2-2642 (1) Each commercial, noncommercial, and private applicator
4 license shall expire on April 15 following the third year in which it was
5 issued.

6 (2) Except as provided by subsection (3) of this section, a person
7 having a valid commercial or noncommercial applicator license may renew
8 the license for another three-year period by:

9 (a) Paying to the department an amount equal to the license fee
10 required by section 2-2638 for commercial applicator licenses or section
11 2-2639 for noncommercial applicator licenses, if any; and

12 (b)(i) Undertaking the training approved by the department; or

13 (ii) Submitting to retesting prior to renewal of the license.

14 (3) Any person who allows his or her commercial or noncommercial
15 applicator license to expire shall be required to submit to testing prior
16 to the renewal of the license.

17 ~~(4)(a) (4)~~ A noncertified applicator required by the Pesticide Act
18 to be a licensed certified commercial or noncommercial applicator may use
19 general-use pesticides as a noncertified applicator prior to obtaining an
20 initial license for only one consecutive one hundred twenty-day ~~sixty-day~~
21 period of time if:

22 (i) ~~(a)~~ The individual or his or her employer applies to the
23 department for a license as a licensed certified applicator within ten
24 days of making the first pesticide use. Such license application shall
25 include the name and license number of the licensed certified applicator
26 who is supervising the noncertified applicator;

27 (ii) ~~(b)~~ All pesticide uses made by an individual as a noncertified
28 applicator are made under the direct supervision of a licensed certified
29 applicator meeting the requirements of 40 C.F.R. 171.201;

30 (iii) ~~(c)~~ The noncertified applicator has received training meeting
31 the requirements of 40 C.F.R. 171.201; and

1 (iv) ~~(d)~~ The supervising certified applicator remains accessible by
2 voice or electronic means to provide further instructions at all times
3 during the noncertified applicator's use of the pesticide and is able to
4 be physically on the site, should the need arise, where the pesticide use
5 or storage is taking place within a reasonable period of time as
6 established by the director by rules and regulations. Both the licensed
7 certified applicator and noncertified applicator shall be responsible for
8 the acts of the noncertified applicator and each shall be subject to all
9 fines, license actions, and other enforcement actions prescribed by the
10 Pesticide Act for violations under the act. The department may deny or
11 suspend the use of pesticides by a noncertified applicator if it has
12 reasonable cause to believe that such person may not become eligible to
13 become a licensed certified applicator or uses any pesticide in violation
14 of the act.

15 (b) A person applying for a license pursuant to this subsection may
16 make an unlimited number of attempts to pass the applicable examination
17 required under sections 2-2637 and 2-2640 during the consecutive one
18 hundred twenty-day period.

19 (5)(a) ~~(5)~~ A noncertified applicator required by the Pesticide Act
20 to be a licensed certified commercial or noncommercial applicator may use
21 a restricted-use pesticide which is not a fumigant, sodium cyanide, or
22 sodium fluoroacetate as a noncertified applicator prior to obtaining an
23 initial license for only one consecutive one hundred twenty-day ~~sixty-day~~
24 period of time if:

25 (i) ~~(a)~~ The noncertified applicator complies with the requirements
26 of subsection (4) of this section; and

27 (ii) ~~(b)~~ The noncertified applicator does not apply the restricted-
28 use pesticides aurally.

29 (b) A person applying for a license pursuant to this subsection may
30 make an unlimited number of attempts to pass the applicable examination
31 required under sections 2-2637 and 2-2640 during the consecutive one

1 hundred twenty-day period.

2 (6) A noncertified applicator required by the Pesticide Act to be a
3 licensed certified private applicator may apply restricted-use pesticides
4 for the purpose of producing agricultural commodities on property owned
5 or rented by his or her immediate family for one consecutive twenty-four-
6 month period if:

7 (a) The noncertified applicator is at least sixteen years of age and
8 working under the direct supervision of a licensed private applicator who
9 is an immediate family member;

10 (b) The noncertified applicator has received training through a
11 training session meeting the requirements of 40 C.F.R. 171.201; and

12 (c) The supervising certified applicator is in compliance with the
13 requirements of 40 C.F.R. 171.201.

14 Sec. 2. Original section 2-2642, Revised Statutes Supplement, 2019,
15 is repealed.