

5 of the results of the analyses of official samples of commercial feeds  
6 sold within the state as compared with the analyses guaranteed in the  
7 registration and on the label. Provided, that the information concern-  
8 ing production and use of commercial feed shall not disclose the oper-  
9 ations of any person.

1 SEC. 16. Section two hundred three point eight (203.8), Code 1973,  
2 is amended to read as follows:

3 **203.8 Commercial feeds feeds excepted.** Nothing in this chapter  
4 shall be construed as applying to commercial feeds feeds so defined in  
5 subsection 4 of section 198.3 section three (3) of this Act.

1 SEC. 17. Section one hundred fifty-five point two (155.2), subsec-  
2 tion one (1), Code 1973, is amended to read as follows:

3 1. Persons who sell, offer or expose for sale, completely denatured  
4 alcohol or concentrated lye, insecticides or fungicides in original pack-  
5 ages or biological products as defined in chapter 166 or commercial  
6 feeds or stock tonics as defined in chapter 198 as defined in section  
7 three (3) of this Act, or stock tonic as defined in this section. For  
8 purposes of this section, stock tonic shall mean commercial feed for  
9 livestock and poultry such as remedies for the cure and mitigation of  
10 diseases and other nonnutritional conditions. It shall include only  
11 those articles and products for oral administration and shall not  
12 include medicated livestock and poultry feeds.

1 SEC. 18. Section two hundred five point eight (205.8), subsection  
2 three (3), Code 1973, is amended to read as follows:

3 3. To insecticides and fungicides as defined in chapter 206 and com-  
4 mercial feeds as defined in chapter 198 section three (3) of this Act,  
5 provided same be labeled in accordance with said chapter section and  
6 sold in original unbroken packages, provided, however, that stock dips  
7 and fly sprays may be sold in bulk or otherwise and the vessel or con-  
8 tainer need not have printed on the label the most available antidote.

1 SEC. 19. Chapter one hundred ninety-eight (198), Code 1973, is  
2 repealed.

Approved April 23, 1974

## CHAPTER 1157

### PESTICIDES

S. F. 1311

AN ACT relating to the use and application of pesticides and providing penalties for violations.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section two hundred six point two (206.2), subsection  
2 four (4), Code 1973, is amended to read as follows:

3 4. The term "ingredient statement" means either:

4 a. A statement of the name and percentage by weight of each pesti-  
5 cide active ingredient, together with the total percentage of the inert  
6 ingredients, in the pesticide; and

7     b. ~~With respect to pesticides for household uses, not highly toxic to~~  
8 ~~man, a statement of the name of each active ingredient in descending~~  
9 ~~order of predominance and total percent of inert ingredients.~~  
10     e b. ~~In case~~ When the pesticide contains arsenic in any form, ~~a the~~  
11 ~~ingredient~~ statement ~~of the~~ shall also include percentages ~~by weight~~ of  
12 total and water soluble arsenic, each calculated as elemental arsenic.

1     SEC. 2. Section two hundred six point two (206.2), Code 1973, is  
2 amended by adding the following new subsections:

3     NEW SUBSECTION. "Certified applicator" means any individual who  
4 is certified under this chapter as authorized to use or supervise the use  
5 of any pesticide which is classified for restricted use.

6     NEW SUBSECTION. "Certified private applicator" means a certified  
7 applicator who uses or supervises the use of any pesticide which is clas-  
8 sified for restricted use for purposes of producing any agricultural  
9 commodity on property owned or rented by him or his employer or,  
10 if applied without compensation other than trading of personal ser-  
11 vices between producers of agricultural commodities, on the property  
12 of another person.

13     NEW SUBSECTION. "Certified commercial applicator" means a pes-  
14 ticide applicator or individual who applies or uses a restricted use  
15 pesticide or device for the purpose of producing any agricultural com-  
16 modity or on any property of another for compensation.

17     NEW SUBSECTION. "Public applicator" means an individual who  
18 applies pesticides as an employee of a state agency, county, municipal  
19 corporation, or other governmental agency. This term does not  
20 include employees who work only under the direct supervision of a  
21 public applicator.

22     NEW SUBSECTION. The term "distribute" means to offer for sale,  
23 hold for sale, sell, barter, or supply pesticides in this state.

24     NEW SUBSECTION. The term "hazard" means a probability that a  
25 given pesticide will have an adverse effect on man or the environment  
26 in a given situation, the relative likelihood of danger or ill effect being  
27 dependent on a number of interrelated factors present at any given  
28 time.

29     NEW SUBSECTION. The term "permit" means a written certificate,  
30 issued by the secretary or his authorized agent as authorized in rules  
31 adopted by the chemical technology commission authorizing the use of  
32 certain state restricted use pesticides.

33     NEW SUBSECTION. The term "pesticide dealer" means any person  
34 who distributes any restricted use pesticides which, by regulation, are  
35 restricted to application only by certified applicators.

36     NEW SUBSECTION. The term "restricted use pesticide" means any  
37 pesticide restricted as to use by rule of the secretary as adopted under  
38 section twenty (20) of this Act.

39     NEW SUBSECTION. The term "state restricted use pesticide" means  
40 any pesticide which is restricted for sale, use, or distribution under the  
41 authority of section four hundred fifty-five B point one hundred one  
42 (455B.101) of the Code.

43     NEW SUBSECTION. The term "under the direct supervision of"  
44 means the act or process whereby the application of a pesticide is  
45 made by a competent person acting under the instructions and control  
46 of a certified applicator or a state licensed commercial applicator who

47 is available if and when needed, even though such certified applicator  
48 is not physically present at the time and place the pesticide is applied.

49 **NEW SUBSECTION.** The term "unreasonable adverse effects on the  
50 environment" means any unreasonable risk to man or the environ-  
51 ment, taking into account the economic, social and environmental costs  
52 and benefits of the use of any pesticide.

1 **SEC. 3.** Section two hundred six point seven (206.7), Code 1973, is  
2 amended to read as follows:

3 **206.7 Examination and orders.** The examination of pesticides *and*  
4 *those products to which pesticides have been applied for the content of*  
5 *pesticide residues* shall be made under the direction of the secretary, or  
6 his authorized representative, for the purpose of determining whether  
7 they comply with the requirements of this chapter *and rules and regu-*  
8 *lations adopted under this chapter.* If it shall appear from such exami-  
9 nation that a pesticide fails to comply with the provisions of this chap-  
10 ter, and the secretary, or his authorized representative, contemplates  
11 instituting criminal proceedings against any person, he shall cause  
12 notice to be given to such person. Any person so notified shall be given  
13 an opportunity to present his views, either orally or in writing, with  
14 regard to such contemplated proceedings and if thereafter in the opin-  
15 ion of the secretary, or his authorized representative, it shall appear  
16 that the provisions of the chapter have been violated by such person,  
17 then the secretary or his authorized representative may refer the facts  
18 to the county attorney for the county in which the violation shall have  
19 occurred with a copy of the results of the analysis or the examination  
20 of such article; provided, however, that nothing in this chapter shall  
21 be construed as requiring the secretary or his representative to report  
22 for prosecution or for the institution of proceedings in minor viola-  
23 tions of the chapter whenever he believes that the public interests will  
24 be best served by a suitable notice of warning in writing.

1 **SEC. 4.** Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. Classification of licenses.**

4 1. The secretary may classify or subclassify certifications or licenses  
5 to be issued under this chapter. Each classification shall be subject to  
6 separate testing procedures and requirements. However, no person  
7 shall be required to pay an additional license fee if such person desires  
8 to be licensed in one or all of the license classifications provided for by  
9 the secretary under the authority of this section.

10 2. The secretary in promulgating regulations under this chapter  
11 shall prescribe standards for the certification of applicators of pesti-  
12 cides. In determining these standards the secretary shall take into  
13 consideration standards of the United States environmental protection  
14 agency and is authorized to adopt by regulation these standards.

1 **SEC. 5.** Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. Certification requirements.** No person shall apply  
4 any restricted use pesticide without first complying with the certifica-  
5 tion requirements of this chapter and such other restrictions as deter-  
6 mined by the secretary or being under the direct supervision of a cer-  
7 tified applicator.

8 The secretary shall adopt, by rule, requirements for the examina-  
9 tion, reexamination and certification of applicants and set a fee of not  
10 more than ten dollars for the certification program of commercial  
11 applicators and not more than five dollars for the certification program  
12 of private applicators.

13 The secretary may adopt rules for the training of applicators in  
14 cooperation with the cooperative extension service at Iowa state uni-  
15 versity of science and technology.

1 SEC. 6. Section two hundred six point five (206.5), Code 1973, is  
2 amended by striking the section and inserting in lieu thereof the fol-  
3 lowing:

4 **206.5 License for commercial applicators.**

5 1. Commercial applicator. No person shall engage in the business  
6 of applying pesticides to the lands or property of another at any time  
7 without being licensed by the secretary. The secretary shall require  
8 an annual license fee of not more than twenty-five dollars for each  
9 license. Application for a license shall be made in writing to the de-  
10 partment on a designated form obtained from the department. Each  
11 application for a license shall contain information regarding the appli-  
12 cant's qualifications and proposed operations, license classification or  
13 classifications for which the applicant is applying.

14 A person who applies pesticides by use of any aircraft and who is  
15 licensed as an aerial commercial applicator in another state shall apply  
16 pesticides in Iowa under the direct supervision of a person holding a  
17 valid Iowa aerial commercial applicator's license. The supervising  
18 aerial commercial applicator shall be jointly liable with the person who  
19 is licensed as an aerial commercial applicator in another state for dam-  
20 ages. The supervising applicator shall immediately notify the secre-  
21 tary of the commencement and of the termination of service provided  
22 by the supervised applicator. A person licensed in another state as an  
23 aerial commercial applicator may operate independently if he acquires  
24 an aerial commercial applicator license from the secretary and posts  
25 bond in amount to be determined by the secretary, and registers with  
26 the Iowa aeronautics commission. Such person shall be liable for  
27 damages.

28 2. Nonresident applicator. Any nonresident applying for a license  
29 under this chapter to operate in the state shall file a written power of  
30 attorney designating the secretary of state as the agent of such non-  
31 resident upon whom service of process may be had in the event of any  
32 suit against said nonresident person, and such power of attorney shall  
33 be so prepared and in such form as to render effective the jurisdiction  
34 of the courts of this state over such nonresident applicants. A non-  
35 resident who has a duly appointed resident agent upon whom process  
36 may be served as provided by law shall not be required to designate  
37 the secretary of state as such agent. The secretary of state shall be  
38 allowed such fees as provided by law for designating resident agents.  
39 The secretary shall be furnished with a copy of such designation of the  
40 secretary of state or of a resident agent, such copy to be certified by  
41 the secretary of state.

42 3. Examination for commercial applicator license. The secretary  
43 shall not issue a commercial applicator license until the individual  
44 engaged in or managing the pesticide application business is qualified  
45 by passing an examination to demonstrate to the secretary his knowl-

46 edge of how to apply pesticides under the classifications he has applied  
47 for, and his knowledge of the nature and effect of pesticides he may  
48 apply under such classifications. The applicant successfully completing  
49 this examination requirement shall be a licensed commercial applicator.

50 4. Renewal of applicants license. The secretary shall renew any  
51 applicant's license under the classifications for which such applicant is  
52 licensed, subject to reexamination for additional knowledge that may  
53 be required to apply pesticides.

54 5. Issue commercial applicator license. If the secretary finds the  
55 applicant qualified to apply pesticides in the classifications for which  
56 he has applied and if the applicant files the bonds or insurance required  
57 under section thirteen (13) of this Act, and if the applicant applying  
58 for a license to engage in aerial application of pesticides has met all  
59 of the requirements of the federal aviation administration, the Iowa  
60 aeronautics commission and any other applicable federal or state laws  
61 or regulations to operate the equipment described in the application,  
62 the secretary shall issue a commercial applicator license limited to the  
63 classifications for which he is qualified, which shall expire at the end  
64 of the calendar year of issue unless it has been revoked or suspended  
65 prior thereto by the secretary for cause. The secretary may limit the  
66 license of the applicant to the use of certain pesticides, or to certain  
67 areas, or to certain types of equipment if the applicant is only so quali-  
68 fied. If a license is not issued as applied for, the secretary shall inform  
69 the applicant in writing of the reasons therefor.

70 6. Public applicator.

71 a. All state agencies, counties, municipal corporations, and any other  
72 governmental agency shall be subject to the provisions of this chapter  
73 and rules adopted thereunder concerning the application of pesticides.

74 b. Public applicators for agencies listed in this subsection shall be  
75 subject to examinations as provided for in this section, however, the  
76 secretary shall issue a limited license without a fee to such public  
77 applicator who has qualified for such license. The public applicator  
78 license shall be valid only when such applicator is acting as an appli-  
79 cator applying or supervising the application of pesticides used by such  
80 entities. Government research personnel shall be exempt from this  
81 licensing requirement when applying pesticides only to experimental  
82 plots. Individuals licensed pursuant to this section shall be licensed  
83 public applicators.

84 c. Such agencies and municipal corporations shall be subject to legal  
85 recourse by any person damaged by such application of any pesticide,  
86 and such action may be brought in the county where the damage or  
87 some part thereof occurred.

1 SEC. 7. Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. Certified applicators.**

4 1. Requirement for certification. No commercial or public appli-  
5 cator shall apply any restricted use pesticide without first complying  
6 with the certification standards or being under the direct supervision  
7 of a certified applicator.

8 2. Certification standards. Certification standards shall be adopted  
9 by the secretary to determine the individual's competence with respect  
10 to the application and handling of the restricted use pesticides. In  
11 determining these standards, the secretary shall take into considera-

12 tion the standards of the United States environmental protection  
13 agency.

14 3. Reasons for not qualifying. If the secretary does not qualify the  
15 applicator under this section he shall inform the applicant in writing  
16 of the reasons therefor.

1 SEC. 8. Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. Pesticide dealer license.**

4 1. It shall be unlawful for any person to act in the capacity of a  
5 pesticide dealer, or advertise as, or assume to act as a pesticide dealer  
6 at any time without first having obtained a license from the secretary  
7 which shall expire at the end of the calendar year of issue. A license  
8 shall be required for each location or outlet located within this state  
9 from which such pesticides are distributed. Any manufacturer, regis-  
10 trant, or distributor who has no pesticide dealer outlet licensed within  
11 this state and who distributes such pesticides directly into this state  
12 shall obtain a pesticide dealer license for his principal out-of-state  
13 location or outlet.

14 2. Application for a license shall be accompanied by a twenty-five  
15 dollar annual license fee for the primary business location and an  
16 additional five dollar annual license fee for each other location or outlet  
17 within the state, and shall be on a form prescribed by the secretary  
18 and shall include the full name of the person applying for such license.

19 3. Provisions of this section shall not apply to a pesticide applicator  
20 who sells pesticides only as an integral part of his pesticide application  
21 service when such pesticides are dispensed only through his equipment  
22 used for such pesticide application; or any federal, state, county, or  
23 municipal agency which provides pesticides only for its own programs.

1 SEC. 9. Section two hundred six point eleven (206.11), Code 1973,  
2 is amended by striking the section and inserting in lieu thereof the  
3 following:

4 **206.11 Cooperative agreements.** The secretary may cooperate, re-  
5 ceive grants-in-aid, and enter into agreements with any agency of the  
6 federal government, of this state or its subdivisions, or with any  
7 agency of another state, or trade associations to obtain assistance in  
8 the implementation of this chapter and to:

- 9 1. Secure uniformity of regulations;
- 10 2. Cooperate in the enforcement of the federal pesticide control laws  
11 through the use of state or federal personnel and facilities and to  
12 implement cooperative enforcement programs;
- 13 3. Develop and administer state programs for training and certifi-  
14 cation of certified applicators consistent with federal standards;
- 15 4. Contract for training with other agencies including federal agen-  
16 cies for the purpose of training certified applicators;
- 17 5. Contract for monitoring pesticides for the national plan;
- 18 6. Prepare and submit state plans to meet federal certification stan-  
19 dards; and,
- 20 7. Regulate certified applicators.

1 SEC. 10. Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. License renewals—delinquent fee.** If the applica-  
4 tion for renewal of any license provided for in this chapter is not filed

5 prior to the first of January in any year, a delinquent fee of twenty-  
6 five percent shall be assessed and added to the original fee and shall be  
7 paid by the applicant before the renewal license shall be issued. A  
8 delinquent fee shall not apply if the applicant furnishes an affidavit  
9 certifying that he has not applied pesticides after the expiration of  
10 his license. All licenses issued under this chapter shall expire Decem-  
11 ber thirty-first each year.

1 SEC. 11. Section two hundred six point three (206.3), Code 1973, is  
2 amended by adding the following new subsections:

3 NEW SUBSECTION. It shall be unlawful:

4 a. To distribute any restricted use pesticide to any person who is re-  
5 quired by law or regulations promulgated under such law to be certified  
6 to use or purchase such restricted pesticides unless such person or his  
7 agent, to whom distribution is made, is certified to use or purchase  
8 such restricted pesticide. Subject to conditions established by the  
9 secretary such certification may be obtained immediately prior to dis-  
10 tribution from any person designated by the secretary.

11 b. For any person to use or cause to be used any pesticide contrary  
12 to its labeling or to regulations of the state of Iowa if those regulations  
13 differ from or further restrict the usage.

14 c. For any person to handle, transport, store, display, or distribute  
15 pesticides in such a manner as to endanger man and his environment  
16 or to endanger food, feed, or any other products that may be trans-  
17 ported, stored, displayed, or distributed with such pesticides.

18 d. For any person to dispose of, discard, or store any pesticides or  
19 pesticide containers in such a manner as to cause injury to humans,  
20 vegetation, crops, livestock, wildlife, pollinating insects or to pollute  
21 any water supply or waterway.

22 NEW SUBSECTION. The secretary may suspend an applicator's  
23 license pending inquiry, and, after opportunity for a hearing, to be  
24 held within ten days, may deny, suspend, revoke or modify any provi-  
25 sion of any license, permit or certification issued under this Act, if he  
26 finds that the applicant or the holder of a license, permit or certifica-  
27 tion has committed any of the following acts, each of which is declared  
28 to be a violation of this Act. However, any licensed or unlicensed  
29 person shall be subject to the penalties provided for by section two  
30 hundred six point nine (206.9) of the Code.

31 a. Made a pesticide recommendation or application inconsistent with  
32 the labeling.

33 b. Applied known ineffective or improper materials.

34 c. Operated faulty or unsafe equipment.

35 d. Operated in a faulty, careless or negligent manner.

36 e. Neglected or, after notice, refused to comply with the provisions  
37 of this chapter, the rules adopted hereunder, or of any lawful order of  
38 the secretary.

39 f. Refused or neglected to keep and maintain the records required  
40 by this chapter, or to make reports when and as required.

41 g. Made false or fraudulent records, invoice or reports.

42 h. Refused or neglected to comply with any limitations or restric-  
43 tions on or in a duly issued license, permit or certification.

44 i. Aided or abetted a licensed or an unlicensed person to evade the  
45 provisions of this chapter, conspired with such a licensed or an un-

46 licensed person to evade the provisions of this chapter, or allowed one's  
47 license, permit, or certification to be used by another person.

48 j. Made false or misleading statements during or after an inspection  
49 concerning any infestation or infection of pests found on land.

50 k. Impersonated any federal, state, county or city inspector or official.  
51

1 SEC. 12. Section two hundred six point four (206.4), subsections  
2 one (1) and three (3), Code 1973, are amended to read as follows:

3 1. Every pesticide which is distributed, sold or offered for sale  
4 within this state or delivered for transportation or transported in  
5 intrastate commerce between points within the state through any point  
6 outside this state shall be registered with the department of agricul-  
7 ture. All registration of products shall expire on the thirty-first day  
8 of ~~October~~ *December* following date of issuance, unless such registra-  
9 tion shall be renewed annually, in which event expiration date shall be  
10 extended for each year of renewal registration, or until otherwise  
11 terminated; provided that:

12 a. ~~Products which have the same formula, and are manufactured by~~  
13 ~~the same person, the labeling of which contains the same claims, and~~  
14 ~~the labels of which bear a designation identifying the product as the~~  
15 ~~same pesticide may be registered as a single pesticide; additional~~  
16 ~~names and labels shall be added by supplement statements during the~~  
17 ~~current period of registration. For the purpose of this chapter, fer-~~  
18 ~~tilizers in mixed fertilizer-pesticide formulations shall be considered~~  
19 ~~as inert ingredients.~~

20 b. Within the discretion of the secretary, or his authorized repre-  
21 sentative, a change in the labeling or formulae of a pesticide may be  
22 made within the current period of registration, without requiring a  
23 reregistration of the product, provided the name of the item is not  
24 changed.

25 3. The registrant, before selling or offering for sale any pesticide in  
26 this state, shall register each brand and grade of such pesticide with  
27 the secretary upon forms furnished by the secretary, and, for the  
28 purpose of defraying expenses connected with the enforcement of this  
29 chapter, ~~shall pay to the secretary an annual~~ *shall set the* registration  
30 ~~fee of ten annually at no more than twenty~~ dollars for each and every  
31 brand and grade to be offered for sale in this state ~~up to ten products.~~  
32 ~~A fee of five dollars shall be paid for each product thereafter.~~ The fees  
33 collected shall be deposited in the treasury to the credit of the pesticide  
34 fund to be used only for the purpose of enforcing the provisions of  
35 this chapter. ~~All moneys in said fund in excess of one hundred thou-~~  
36 ~~sand dollars shall be placed in the general fund of the state at the end~~  
37 ~~of each biennium.~~

1 SEC. 13. Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 **NEW SECTION. Surety bond or insurance required of commercial**  
4 **applicator.** The secretary shall not issue a commercial applicator's  
5 license as required in section six (6) of this Act until the applicant has  
6 furnished evidence of financial responsibility with the secretary con-  
7 sisting either of a surety bond or a liability insurance policy or certifi-  
8 cation thereof protecting persons who may suffer legal damages as a  
9 result of the pesticide operations of the applicant. The surety bond or



10 liability insurance policy submitted as evidence of financial responsi-  
 11 bility need not apply to damages or injury to agricultural crops, plants,  
 12 or land being worked upon by the applicant.

13 The amount of the surety bond or liability insurance as provided for  
 14 in this section shall be not less than fifty thousand dollars for property  
 15 damage and public liability, insurance, each separately, and including  
 16 loss or damage arising out of the actual use of any pesticide. Such  
 17 surety bond or liability insurance shall be maintained at not less than  
 18 that sum at all times during the licensed period. The secretary shall  
 19 be notified ten days prior to any reduction at the request of the appli-  
 20 cant or cancellation of such surety bond or liability insurance by the  
 21 surety or insurer. The total and aggregate of the surety and insurer  
 22 for all claims shall be limited to the face of the bond or liability insur-  
 23 ance policy. The secretary may accept a liability insurance policy or  
 24 surety bond in the proper sum which has a deductible clause in an  
 25 amount not exceeding five hundred dollars for aerial applicators and  
 26 two hundred fifty dollars for all other applicators for the total amount  
 27 of liability insurance or surety bond required.

1 SEC. 14. Section two hundred six point thirteen (206.13), Code  
 2 1973, is amended by striking the section and inserting in lieu thereof  
 3 the following:

4 **206.13 Reports of pesticide accidents, incidents, or loss.**

5 1. The secretary may, by regulation require the reporting of signifi-  
 6 cant pesticide accidents or incidents to a designated state agency.

7 2. Any person claiming damages from a pesticide application shall  
 8 have filed with the secretary on a form prescribed by the secretary a  
 9 written statement claiming that he has been damaged.

10 a. This report shall have been filed within sixty days after the  
 11 alleged date that damages occurred. If a growing crop is alleged to  
 12 have been damaged, the report must be filed prior to the time that  
 13 twenty-five percent of the crop has been harvested. Such statement  
 14 shall contain, but shall not be limited to the name of the person alleg-  
 15 edly responsible for the application of said pesticide, the name of the  
 16 owner or lessee of the land on which the crop is grown and for which  
 17 damage is alleged to have occurred, and the date on which the alleged  
 18 damage occurred.

19 b. The secretary shall prepare a form to be furnished to persons to  
 20 be used in such cases and such form shall contain such other require-  
 21 ments as the secretary may deem proper. The secretary shall, upon  
 22 receipt of such statement, notify the licensee and the owner or lessee  
 23 of the land or other person who may be charged with the responsibility  
 24 of the damages claimed, and furnish copies of such statements as may  
 25 be requested. The secretary shall inspect damages whenever possible  
 26 and when he determines that the complaint has sufficient merit he  
 27 shall make such information available to the person claiming damage  
 28 and to the person who is alleged to have caused the damage.

29 3. The filing of such a report or failure to give notice shall not pre-  
 30 clude recovery in an action for damages and shall not affect the limi-  
 31 tations of actions set forth in chapter six hundred fourteen (614) of  
 32 the Code. Nothing herein shall prohibit an action for damages for  
 33 bodily injury or death to any person.

34 a. The filing of such report or the failure to file such a report shall  
 35 not be a violation of this chapter. However, if the person failing to file

36 such report is the only one injured from such use or application of a  
 37 pesticide by others, the secretary may, when in the public interest,  
 38 refuse to hold a hearing for the denial, suspension or revocation of a  
 39 license or permit issued under this chapter until such report is filed.

40 b. Where damage is alleged to have occurred, the claimant shall  
 41 permit the secretary, the licensee and his representatives, such as  
 42 bondsman or insurer, to observe within reasonable hours the lands or  
 43 nontarget organism alleged to have been damaged in order that such  
 44 damage may be examined. Failure of the claimant to permit such  
 45 observation and examination of the damaged lands shall automatically  
 46 bar the claim against the licensee.

1 SEC. 15. Chapter two hundred six (206), Code 1973, is amended by  
 2 adding the following new section:

3 NEW SECTION. **Licensee to keep records.** The secretary shall re-  
 4 quire commercial applicators and certified commercial applicators to  
 5 maintain records with respect to application of pesticides. Such rele-  
 6 vant information as the secretary may deem necessary may be speci-  
 7 fied by regulation. Such records shall be kept for a period of three  
 8 years from the date of the application of the pesticide to which such  
 9 records refer, and the secretary shall, upon request in writing, be fur-  
 10 nished with a copy of such records forthwith.

1 SEC. 16. Section two hundred six point ten (206.10), Code 1973, is  
 2 amended by adding the following new subsection:

3 NEW SUBSECTION. When the secretary has reasonable cause to  
 4 believe a pesticide or device is being distributed, stored, transported,  
 5 or used in violation of any of the provisions of this chapter, or of any  
 6 of the prescribed regulations under this chapter, he may issue and  
 7 serve a written "stop sale, use, or removal" order upon the owner or  
 8 custodian of any such pesticide or device. If the owner or custodian is  
 9 not available for service of the order upon him, the secretary may  
 10 attach the order to the pesticide or device and notify the registrant.  
 11 The pesticide or device shall not be sold, used, or removed until the  
 12 provisions of this chapter have been complied with and the pesticide  
 13 or device has been released in writing under conditions specified by the  
 14 secretary or the violation has been otherwise disposed of as provided  
 15 in this chapter by a court of competent jurisdiction.

1 SEC. 17. Chapter two hundred six (206), Code 1973, is amended by  
 2 adding the following new section:

3 NEW SECTION. **Reciprocal agreement.** The secretary may waive  
 4 all or part of the examination requirements provided for in sections  
 5 six (6) and seven (7) of this Act on a reciprocal basis with any other  
 6 state which has substantially the same standards.

1 SEC. 18. Section two hundred six point eight (206.8), Code 1973, is  
 2 amended by adding the following new subsections:

3 NEW SUBSECTION. The provisions of section six (6) of this Act  
 4 relating to licenses and requirements for their issuance shall not apply  
 5 to any farmer applying pesticides for himself or with ground equip-  
 6 ment or manually for his farmer neighbors; provided, that:

7 a. He operates farm property and operates and maintains pesticide  
 8 application equipment primarily for his own use;

9 b. He is not regularly engaged in the business of applying pesticides  
10 for hire amounting to a principal or regular occupation and that he  
11 shall not publicly hold himself out as a pesticide applicator;

12 c. He operates his pesticide application equipment only in the vicin-  
13 ity of his own property and for the accommodation of his neighbors.

14 NEW SUBSECTION. The licensing requirements of section six (6)  
15 of this Act shall not apply to any person using hand-powered equip-  
16 ment to applying pesticides to lawns, or to ornamental shrubs and trees  
17 not in excess of twelve feet high, as an incidental part of taking care  
18 of household lawns and yards provided, that such person shall not  
19 publicly hold himself out as being in the business of applying pesti-  
20 cides, and that such person does not apply restricted use pesticides or  
21 state restricted use pesticides, restricted to use only by certified appli-  
22 cators.

23 NEW SUBSECTION. The provisions of section six (6) of this Act  
24 relating to licenses and requirements for their issuance shall not apply  
25 to a doctor of veterinary medicine applying pesticides to animals dur-  
26 ing the normal course of his veterinary practice; provided that he is  
27 not regularly engaged in the business of applying pesticides for hire  
28 amounting to a principal or regular occupation or does not publicly  
29 hold himself out as a pesticide applicator; and that he does not apply  
30 restricted use pesticides, or state restricted use pesticides, restricted  
31 to use by certified applicators only.

1 SEC. 19. Section two hundred six point twelve (206.12), Code 1973,  
2 is amended to read as follows:

3 206.12 **Rules adopted.** The rules and regulations promulgated  
4 under the provisions of this chapter shall not be effective until ap-  
5 proved by the chemical technology ~~review board~~ *commission of the*  
6 *department of environmental quality* and submitted to the depart-  
7 mental rules review committee as provided in chapter 17A.

1 SEC. 20. Chapter two hundred six (206), Code 1973, is amended by  
2 adding the following new section:

3 NEW SECTION. **Restricted use pesticides classified.** The secretary  
4 shall determine, by rule, the pesticides to be classified as restricted use  
5 pesticides. In determining these rules the secretary shall take into  
6 consideration the pesticides classified as restricted use by the United  
7 States environmental protection agency and is authorized to adopt by  
8 reference these classifications.

1 SEC. 21. This Act shall become effective January 1, 1975. How-  
2 ever, certification for applicators of restricted use pesticides shall not  
3 be required until October 21, 1976. Notwithstanding any of the pro-  
4 visions of chapter two hundred and six (206) of the Code, all licenses  
5 and product registrations that expire after June 30, 1974, and before  
6 December 31, 1974, shall remain in full force and effect and be deemed  
7 a current license or product registration during the period between  
8 July 1, 1974 and December 31, 1974. All licenses and product registra-  
9 tions so extended shall expire on December 31, 1974.

Approved May 2, 1974