

## 2012 Kansas Statutes

**2-2202. Definitions.** For the purpose of this act: (a) The terms "agricultural chemical" and "pesticide" shall be construed as synonymous terms, shall apply to substances used for both agricultural and non-agricultural uses and shall mean and include any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects, rodents, predatory animals, fungi, weeds, nematodes and other forms of plant or animal life or viruses, which the secretary shall declare to be a pest, and any substance labeled, designed or intended for use as a defoliant, and any substance or mixture of substances, labeled, designed or intended for use as a plant regulator, or desiccant. Viruses on or in living man or other animals are specifically excepted and excluded from this definition. Drugs recognized by the United States pharmacopoeia or the national formulary, the label of which bears the descriptive abbreviations for these compendia, U.S.P. or N.F. as the case may be, are specifically excepted and excluded from this definition.

(b) The term "insecticide" means and includes any substance or mixture of substances, labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

(c) The term "fungicide" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any fungi.

(d) The term "rodenticide" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating rodents or any other vertebrate animals which the secretary shall declare to be a pest.

(e) The term "herbicide" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any weed.

(f) The term "nematocide" means any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any nematodes.

(g) The term "defoliant" means and includes any substance or mixture of substances, labeled, designed, or intended for use for defoliating plants, preparatory to harvest for purpose of obtaining early or controlled maturity.

(h) The term "plant regulator" means any substance or mixture of substances, labeled, designed, or intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(i) The term "desiccant" means any substance or mixture of substances labeled, designed, or intended for artificially accelerating the drying of plant tissues.

(j) The term "insect" means a small invertebrate animal generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(k) The term "fungi" means and includes any nonchlorophyll-bearing thallophytes (any nonchlorophyll-bearing plants of a lower order than mosses and liverworts) and includes rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(l) The term "weed" means and includes any plant which grows where not wanted.

(m) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(n) The term "fumigant" means any substance or mixture of substances which emits or liberates a gas or gases, which are used in controlling, destroying, or mitigating insects or rodents and which are usually dangerous to man and other animals.

(o) The term "ingredient statement" means a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the agricultural chemical. If the agricultural chemical contains arsenic in any form, the statement shall include the percentages of total and water soluble arsenic, each calculated as elemental arsenic. If the agricultural chemical is not highly toxic to man, and if the agricultural chemical does not contain arsenic in any form, and if the agricultural chemical is not a fumigant, and if a statement of the total percentage of each active ingredient is filed with the secretary, then the term "ingredient statement" shall be construed to mean a statement of the name of each active ingredient listed in the order of greatest percentage of each present in the product, together with the name and total percentage of the inert ingredients, if any there be in the agricultural chemical.

(p) The term "active ingredient" means (1) in the case of any agricultural chemical other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

(2) in the case of a plant regulator an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(q) The term "inert ingredient" means an ingredient which is not an active ingredient.

(r) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(s) The term "person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

(t) The term "secretary" means the secretary of agriculture.

(u) The term "registrant" means the person registering any agricultural chemical pursuant to the provisions of this act.

(v) The term "label" means the written, printed, or graphic matter on, or attached to, the agricultural chemical or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be.

(w) The term "labeling" means all labels and other written, printed or graphic matter:

(1) Upon the agricultural chemical or any of its containers or wrappers;

(2) accompanying the agricultural chemical at any time;

(3) to which reference is made on the label or in literature accompanying the agricultural chemical, except when accurate, nonmisleading reference is made to current official publications of the United States departments of agriculture, interior, health and human services, environmental protection agency and state and federal experimental stations and extension services.

(x) The term "adulterated" shall apply to any agricultural chemical:

(1) The strength or purity of which falls below the professed standard or quality as expressed on labeling or under which it is sold;

(2) if any substance has been substituted wholly or in part for the article;

(3) if any valuable constituent of the article has been wholly or in part abstracted.

(y) The term "misbranded" shall apply:

(1) To any agricultural chemical if its labeling bears any statement, design, or graphic representation relative thereto, or to its ingredients, which is false or misleading in any particular;

(2) to any agricultural chemical:

(a) Which is an imitation of or is offered for sale under the name of another agricultural chemical;

(b) the labeling of which bears any reference to registration under this act;

(c) the labeling accompanying which does not contain instructions for use which are necessary for effective results; and which, if complied with, are adequate for the protection of the public and the environment;

(d) if the label of which does not contain a warning or caution statement which, if complied with, is adequate to prevent injury to living man and other vertebrate animals or does not bear a hazard or cautionary statement sufficient to prevent harm to the environment, especially the waters of the state;

(e) the label of which does not bear an ingredient statement on the immediate container;

(f) the label of which does not bear an ingredient statement on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read;

(g) upon which there appears any word, statement, or other information required by or under the authority of this act to appear on the labeling, which is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and

(h) the label of which does not bear an EPA registration number, unless exempted from the requirement under the provisions of FIFRA.

(3) To any insecticide, fungicide, nematocide, or herbicide which when used as directed, or when used in accordance with commonly recognized practices:

(a) Shall be injurious to living man or other vertebrate animals, to which it is applied, or to the person applying such agricultural chemical;

(b) shall be injurious to the environment or to vegetation, other than weeds, to which it is applied, or to the person applying such agricultural chemical. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(z) The term "emergency exemption" shall mean an authorization to use a pesticide product, under emergency conditions, in a manner other than as stated on the product label as registered under section 3 of FIFRA which must be obtained by the secretary.

(aa) The term "restricted use" shall mean and include any pesticide, the use of which is either registered as restricted-use by the secretary or labeled as restricted-use by a federal agency responsible for making the classification or designation.

(bb) The term "special local need registration" shall mean a registration under section 24 of FIFRA authorized by the administrator of the EPA when certain conditions are met that indicate that there is a specific and special need within the state.

(cc) The term "suspended pesticide" shall mean any product whose registration is suspended under the provisions of this act or of FIFRA which would immediately stop the distribution or use, or both, of the product.

(dd) The term "distribute" shall mean to sell, offer for sale, hold for sale, hold for shipment, ship, deliver for shipment or release for shipment. The term does not include the holding or application of pesticides or the dilution of pesticide products by commercial pesticide applicators for the control of pests without delivering any unapplied pesticide to any customer of such applicators.

(ee) "EPA" shall mean the United States environmental protection agency.

(ff) "FIFRA" shall mean the federal insecticide, fungicide and rodenticide act (7 U.S.C. § 136 et seq. (1996)) and regulations adopted pursuant thereto.

**History:** L. 1947, ch. 10, § 2; L. 1963, ch. 9, § 1; L. 2004, ch. 101, § 42; L. 2009, ch. 128, § 2; July 1.