

HOUSE BILL No. 2432

By Representative Highland

12-30

1 AN ACT concerning agriculture; relating to environmental remediation;
2 establishing the Kansas pesticide waste disposal program and the
3 Kansas pesticide waste disposal fund; allowing annual transfers from
4 the Kansas agricultural remediation fund to the Kansas pesticide waste
5 disposal fund; amending K.S.A. 2-3702 and K.S.A. 2019 Supp. 2-3708
6 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) There is hereby established a Kansas pesticide
10 waste disposal program to be administered by the secretary of agriculture
11 for the collection and disposal of pesticide waste in the state.

12 (b) The program shall be funded in accordance with the provisions of
13 section 2, and amendments thereto.

14 New Sec. 2. (a) There is hereby created in the state treasury the
15 Kansas pesticide waste disposal fund. All moneys credited to the Kansas
16 pesticide waste disposal fund shall be used by the secretary of agriculture
17 for the Kansas pesticide waste disposal program created in accordance
18 with section 1, and amendments thereto. All expenditures from the Kansas
19 pesticide waste disposal fund shall be made in accordance with
20 appropriation acts upon warrants of the director of accounts and reports
21 issued pursuant to vouchers approved by the secretary of agriculture.

22 (b) The Kansas agricultural remediation board may approve an
23 annual transfer of moneys from the Kansas agricultural remediation fund
24 to the Kansas pesticide waste disposal fund in an amount that shall not
25 exceed \$50,000 in any calendar year. Upon such approval, the director of
26 accounts and reports shall transfer such approved moneys from the Kansas
27 agricultural remediation fund to the Kansas pesticide waste disposal fund.

28 (c) On or before January 1 of each year, the secretary of agriculture
29 shall submit to the Kansas remediation board a report concerning the
30 annual expenditures made from the pesticide waste disposal program.

31 (d) On or before the 10th day of each month, the director of accounts
32 and reports shall transfer from the state general fund to the Kansas
33 pesticide waste disposal fund interest earnings based on:

34 (1) The average daily balance of moneys in the Kansas pesticide
35 waste disposal fund for the preceding month; and

36 (2) the net earnings rate of the pooled money investment portfolio for

1 the preceding month.

2 Sec. 3. K.S.A. 2-3702 is hereby amended to read as follows: 2-3702.
3 As used in K.S.A. 2-3701 ~~through 2-3714~~ *et seq.*, and amendments
4 thereto:

5 (a) "Agricultural or specialty chemical" means any pesticide,
6 fertilizer, plant amendment or soil amendment but does not include nitrate
7 and related nitrogen from a natural source.

8 (b) "Board" means the Kansas agricultural remediation board created
9 by K.S.A. 2-3709, and amendments thereto.

10 (c) "Corrective action" means action in response to release of an
11 agricultural or specialty chemical that poses a threat to human health or the
12 environment.

13 (d) "Eligible corrective action costs" means reasonable and necessary
14 costs of corrective action, as determined in accordance with rules and
15 regulations adopted by the board.

16 (e) "Eligible lending institution" means:

17 (1) A bank, as defined in K.S.A. 75-4201, and amendments thereto,
18 that agrees to participate in the remediation linked deposit program and is
19 eligible to be a depository of state funds; or

20 (2) an institution of the farm credit system organized under the
21 federal farm credit act of 1971-~~12 U.S.C. § 2001~~, as amended, that
22 agrees to participate in the remediation linked deposit program and
23 provides securities acceptable to the pooled money investment board
24 pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and
25 amendments thereto.

26 (f) "Eligible person" means:

27 (1) A responsible party or an owner of real property, but does not
28 include the state, any state agency, any political subdivision of the state,
29 the federal government or any agency of the federal government; or

30 (2) a person who: (A) Is involved in a transaction relating to real
31 property; (B) is not a responsible party or owner of the real property; and
32 (C) voluntarily takes corrective action on the property in response to a
33 request or order for corrective action from the department of health and
34 environment.

35 (g) "Fund" means the Kansas agricultural remediation fund
36 established by K.S.A. 2-3711, and amendments thereto.

37 (h) "*Kansas pesticide waste disposal fund*" means the fund
38 established by section 2, and amendments thereto.

39 (i) "*Kansas pesticide waste disposal program*" means the program
40 established by section 1, and amendments thereto.

41 (j) "Linked deposit" means an investment account placed by the
42 director of investments under the provisions of article 42 of chapter 75 of
43 the Kansas Statutes Annotated, *and amendments thereto*, with an eligible

1 lending institution for the purpose of the remediation linked deposit loan
2 program.

3 ~~(j)~~(k) "Pesticide" means the same as provided in K.S.A. 2-2202, and
4 amendments thereto.

5 (l) (1) "Pesticide waste" means any pesticide that:

6 (A) Is not exempt from registration under the federal insecticide,
7 fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January
8 1, 2020;

9 (B) is not eligible for sale or distribution; and

10 (C) is not otherwise eligible for return or disposal.

11 (2) Such term includes, but is not limited to:

12 (A) Pesticides that have been abandoned or illegally dumped at a site
13 with no identifiable owner or responsible party;

14 (B) pesticides that are unregistered, canceled, suspended or revoked
15 by the Kansas department of agriculture or the United States
16 environmental protection agency;

17 (C) pesticides with missing or illegible labels;

18 (D) pesticides that have been adulterated;

19 (E) pesticides in a leaking or damaged container; or

20 (F) pesticides that are of no use to the current owner of such
21 pesticides.

22 (m) "Release" means any spill, leak, emission, discharge, escape or
23 disposal of an agricultural or specialty chemical into the soils or waters of
24 the state.

25 ~~(j)~~(n) "Remediation linked deposit loan package" means the forms
26 provided by the state treasurer for the purpose of applying for a
27 remediation linked deposit.

28 ~~(k)~~(o) "Remediation linked deposit loan program" means the program
29 provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

30 ~~(j)~~(p) "Remediation reimbursement program" means the program
31 provided for by K.S.A. 2-3709 through 2-3713, and amendments thereto.

32 ~~(m)~~(q) "Site" means all land and water areas, including air space, and
33 all plants, animals, structures, buildings, contrivances and machinery,
34 whether fixed or mobile, including anything used for transportation, within
35 a one-half mile radius of a release.

36 Sec. 4. K.S.A. 2019 Supp. 2-3708 is hereby amended to read as
37 follows: 2-3708. (a) There is hereby established the remediation
38 reimbursement program. The program shall be for the purpose of:

39 (1) Providing reimbursement to eligible persons for the costs of
40 corrective action approved by the department of health and environment or
41 taken in accordance with requests or orders issued by the department of
42 health and environment; and

43 (2) providing funding to the Kansas pesticide waste disposal program

1 *in accordance with the provisions of section 2, and amendments thereto.*

2 (b) The amount of reimbursement that an eligible person may receive
3 from the fund shall be limited as follows:

4 (1) Except as provided in paragraph (2), for an eligible person who
5 has paid all applicable assessments imposed pursuant to K.S.A. 2-3713,
6 and amendments thereto, reimbursement per site shall not exceed an
7 amount equal to: (A) 90% of total eligible corrective action costs greater
8 than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total
9 eligible corrective action costs greater than \$100,000 and less than or
10 equal to \$200,000. The total amount reimbursed for any one site shall not
11 exceed \$200,000 within a 5 year period or as otherwise set forth by the
12 board pursuant to rules and regulations, unless the property has been sold
13 or leased and both the buyer and seller or lessee and lessor are responsible
14 for remediation, in which case the total amount reimbursed for any such
15 site shall not exceed \$400,000 within a five year period or as otherwise set
16 forth by the board pursuant to rules and regulations.

17 (2) For an eligible person who is not required to pay or has not paid
18 any assessment imposed pursuant to K.S.A. 2-3713, and amendments
19 thereto, or for a pesticide dealer who has paid the annual \$5 assessment
20 pursuant to ~~subsection (a)(4) of~~ K.S.A. 2-3713(a)(4), and amendments
21 thereto, reimbursement per site shall not exceed an amount equal to 100%
22 of total eligible corrective action costs greater than \$1,000 and less than or
23 equal to \$10,000.

24 Sec. 5. K.S.A. 2-3702 and K.S.A. 2019 Supp. 2-3708 are hereby
25 repealed.

26 Sec. 6. This act shall take effect and be in force from and after its
27 publication in the statute book.