

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1527

By: Howard

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5
6 AS INTRODUCED

7 An Act relating to the Combined Pesticide Law;
8 amending 2 O.S. 2011, Sections 3-81 and 3-85, as
9 amended by Sections 1 and 3, Chapter 280, O.S.L. 2014
10 (2 O.S. Supp. 2019, Sections 3-81 and 3-85), which
11 relate to definitions, enforcement and rules and
12 standards; modifying and adding definitions;
13 authorizing the Oklahoma Department of Agriculture,
14 Food, and Forestry to promulgate rules pertaining to
15 heat as a method of pest control; restricting use of
16 heat as a method of pest control to commercial
17 applicators; authorizing use of heat as a method of
18 pest control in certain structures; requiring certain
19 actions and procedures before and during the use of
20 heat treatments; providing for codification; and
21 providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 2 O.S. 2011, Section 3-81, as
24 amended by Section 1, Chapter 280, O.S.L. 2014 (2 O.S. Supp. 2019,
25 Section 3-81), is amended to read as follows:

26 Section 3-81. As used in the Combined Pesticide Law:

27 1. "Aircraft" means any contrivance used or designed for
28 navigation of or flight in the air over land or water and is
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1 designed for or adaptable for use in applying pesticides as sprays,
2 dusts, or other forms;

3 2. "Active ingredient" means an ingredient, which defoliates
4 plants, prevents fruit drop, inhibits sprouting, or destroys,
5 repels, or mitigates insects, fungi, bacteria, rodents, weeds, or
6 other pests;

7 3. "Adulterated" means and includes any pesticide if the
8 pesticide strength or purity falls below the professed standard of
9 quality as expressed on labeling or under which it is sold, or if
10 any substance has been substituted wholly or in part for the
11 components of the pesticide, or if any valuable constituent of the
12 components of the pesticide has been wholly or in part abstracted;

13 4. "Antidote" means the most practical immediate treatment in
14 case of poisoning and includes but is not limited to first aid
15 treatment;

16 5. "Business location" means any place, site, or facility
17 maintained by a commercial or noncommercial applicator where
18 records, including, but not limited to, financial statements,
19 payroll, insurance, and personnel documents are maintained,
20 pesticides are stored, or customers are served. A location serving
21 strictly as a telephone answering service shall not be considered a
22 business location;

23 6. "Certificate" means a written document issued to an
24 individual by the State Board of Agriculture which indicates that

1 the individual has met the certification standards established by
2 the Combined Pesticide Law for the category of pesticide application
3 shown on the certificate. A certificate does not allow a person to
4 do work as a commercial, noncommercial, service technician, or
5 private applicator unless employed by a licensed entity or has a
6 valid license issued by the Board;

7 7. "Certification standards" means the standards that a person
8 shall meet to become a certified applicator;

9 8. "Certified applicator" means a person who has met the
10 certification standards;

11 9. "Commercial application" means the advertising of services,
12 recommendation for use, the preparation for application, or the
13 physical act of applying a pesticide or employment of a device for
14 hire or compensation;

15 10. "Commercial applicator" means any person engaging in the
16 commercial application of pesticides ~~or~~, commercial employment of
17 devices or the commercial use of heat as a pest control method
18 pursuant to Section 2 of this act. Any farmer while working for a
19 neighbor in agricultural production, not advertising, and not held
20 out to be in the business of applying restricted-use pesticides,
21 shall not be classified by the Board as a commercial applicator;

22 11. "Contract" means a binding, written agreement between two
23 or more persons spelling out terms and conditions and includes, but
24 is not limited to, warranties or guarantees for pesticide

1 application. For structural pest control applications, the contract
2 shall also include a statement, plat, or diagram showing all
3 locations of visible termites and termite damaged materials which
4 are observed, and how the application was performed;

5 12. "Defoliant" means any pesticide intended to cause the
6 leaves or foliage to drop from a plant, with or without causing
7 abscission;

8 13. "Desiccant" means any pesticide intended to artificially
9 accelerate the drying of plant tissues;

10 14. "Device" means any instrument subject to the United States
11 Environmental Protection Agency regulation intended for trapping,
12 destroying, repelling, or mitigating insects or rodents, or
13 mitigating fungi, bacteria, or weeds, or other pests designated by
14 the Board, but not including equipment used for the application of
15 pesticides when sold separately;

16 15. "Direct supervision" means that the certified applicator is
17 responsible for assuring that persons working, subject to direct
18 supervision, are qualified to handle pesticides and are instructed
19 in the application of the specific pesticides used in each
20 particular application conducted which is subject to their
21 supervision. Certified applicators shall be accessible to the
22 noncertified applicator at all times during the application of the
23 pesticide by telephone, radio, or any device approved by the Board;

1 16. "Fungi" means all nonchlorophyll-bearing thallophytes,
2 including, but not limited to, rusts, smuts, mildews, molds, yeasts,
3 and bacteria, except those on humans or animals;

4 17. "Fungicide" means any pesticide intended for preventing,
5 destroying, repelling, or mitigating any fungi or bacteria;

6 18. "Ground equipment" means any machine, equipment, or device
7 other than aircraft designed for use, adaptable for use, or used on
8 land or water in applying pesticides as sprays, dusts, aerosols,
9 fogs, or other forms;

10 19. "Heat as a method of pest control" means commercial
11 applicators that perform heat treatments for the purpose of treating
12 and controlling bed bugs or other insects;

13 20. "Herbicide" means any pesticide intended for preventing,
14 destroying, repelling, desiccating, or mitigating any weed, or for
15 defoliating plants, preventing fruitdrop, and inhibiting sprouting;

16 ~~20.~~ 21. "Inert ingredient" means an ingredient, which is not an
17 active ingredient;

18 ~~21.~~ 22. "Ingredient statement" means a statement containing the
19 name and percentage of each active ingredient, and the total
20 percentage of all inert ingredients in the pesticide. If the
21 pesticide contains arsenic in any form, the percentages of total and
22 water-soluble arsenic shall each be calculated as elemental arsenic;

23 ~~22.~~ 23. "Insect" means any of the numerous small invertebrate
24 six-legged animals generally having the body more or less obviously

1 segmented, many belonging to the class Insecta, including, but not
2 limited to, beetles, bugs, and flies as well as allied classes of
3 arthropods including spiders, mites, ticks, centipedes, and wood
4 lice;

5 ~~23.~~ 24. "Insecticide" means any pesticide intended for
6 preventing, destroying, repelling, or mitigating any insects which
7 may be present in any environment;

8 ~~24.~~ 25. "Label" means the written, printed, or graphic matter
9 attached to the pesticide, device, or container including the
10 outside container or wrapper of the retail package of the pesticide
11 or device;

12 ~~25.~~ 26. "Labeling" means all labels and other written, printed,
13 or graphic material:

- 14 a. upon the pesticide, device, or any of its containers
15 or wrappers,
- 16 b. accompanying the pesticide or device at any time, or
- 17 c. to which reference is made on the label or in
18 literature accompanying the pesticide or device except
19 when accurate, nonmisleading reference is made to
20 current official publications of the United States
21 Environmental Protection Agency, United States
22 Department of Agriculture, United States Department of
23 the Interior, the United States Public Health Service,
24 State Experiment Stations, State Agricultural

1 Colleges, or other federal institutions or official
2 agencies of this state or other states authorized by
3 law to conduct research in the field of pesticides;

4 ~~26.~~ 27. "License" means a written document issued to a person
5 by the Board which shows that the person has met all established
6 licensing requirements established by the Combined Pesticide Law and
7 who is authorized to apply pesticides as a commercial,
8 noncommercial, or private applicator pursuant to the license issued;

9 ~~27.~~ 28. "Minimum standards" means the measures prescribed by
10 the Board to bring appropriate pesticide services to the public;

11 ~~28.~~ 29. "Misbranded" means and includes:

12 a. any pesticide or device if its labeling bears any
13 statement, design, or graphic representation relative
14 to its ingredients which is false or misleading, or

15 b. any pesticide or device:

16 (1) if it is an imitation of or is offered for sale
17 under the name of another pesticide or device,

18 (2) if its labeling bears any reference to
19 registration under the Combined Pesticide Law,

20 (3) if the labeling accompanying it does not contain
21 instructions for use which are necessary and, if
22 complied with, adequate for the protection of the
23 public,

- 1 (4) if the label does not contain a warning or
2 caution statement which may be necessary and, if
3 complied with, adequate to prevent injury to
4 humans and vertebrate animals,
- 5 (5) if the label does not bear an ingredient
6 statement on that part of the immediate container
7 and on the outside container or wrapper, if there
8 is one, through which the ingredient statement on
9 the immediate container cannot be clearly read,
10 of the retail package which is presented or
11 displayed under customary conditions of purchase,
- 12 (6) if any word, statement, or other information
13 required by or under the authority of the
14 Combined Pesticide Law to appear on the labeling
15 is not prominently placed with conspicuousness,
16 as compared with other words, statements,
17 designees, or graphic matter in the labeling, and
18 in terms likely to be read and understood by an
19 individual under customary conditions of purchase
20 and use, or
- 21 (7) if in the case of an insecticide, fungicide, or
22 herbicide, when used as directed or in accordance
23 with commonly recognized practice, it shall be
24 injurious to humans, vertebrate animals, or

1 vegetation, except weeds, to which it is applied,
2 or to the person applying the pesticide;

3 ~~29.~~ 30. "Noncommercial applicator" means any person, other than
4 a commercial or private applicator, who uses or supervises the use
5 of a restricted-use pesticide. The noncommercial applicator shall
6 be under the supervision of an owner or manager of property and who
7 is certified in the same manner as a commercial applicator. A
8 noncommercial applicator is subject to all requirements except those
9 pertaining to financial responsibility. Noncommercial applicator
10 includes a government employee applying restricted-use pesticides in
11 the discharge of official duties;

12 ~~30.~~ 31. "Nonrestricted-use pesticide" means any pesticide,
13 other than a pesticide classified as restricted-use pesticide;

14 ~~31.~~ 32. "Nonrestricted-use pesticide dealer" means any person
15 engaged in the sale, storage, or distribution of any pesticide other
16 than those pesticides classified by the United States Environmental
17 Protection Agency or the Board as restricted-use pesticides;

18 ~~32.~~ 33. "Permit" means a written document issued by the Board
19 which shows that a person has met all of the permitting requirements
20 established by the Combined Pesticide Law and is authorized to sell
21 pesticides as a restricted-use or nonrestricted-use pesticide dealer
22 in accordance with the type of permit issued;

23 ~~33.~~ 34. "Pest" means any organism harmful to man including, but
24 not limited to, insects, mites, nematodes, weeds, and pathogenic

1 organisms. Pathogenic organisms include viruses, mycoplasma,
2 bacteria, rickettsia, and fungi which the Board declares to be a
3 pest;

4 ~~34.~~ 35. "Pesticide" means a substance or mixture of substances
5 intended for defoliating or desiccating plants, preventing
6 fruitdrop, inhibiting sprouting, or for preventing, destroying,
7 repelling, or mitigating any insects, rodents, fungi, bacteria,
8 weeds, or other forms of plant or animal life or viruses, which the
9 Board declares to be a pest, except viruses on or in humans or
10 animals;

11 ~~35.~~ 36. "Private applicator" means any person who uses or
12 supervises the use of any restricted pesticide for purposes of
13 producing any agricultural commodity on property owned or rented by
14 the person, or employer, or on the property of another person if
15 applied without compensation other than trading of personal services
16 between producers of agricultural commodities;

17 ~~36.~~ 37. "Registrant" means the person registering any pesticide
18 or device pursuant to the provisions of the Combined Pesticide Law;

19 ~~37.~~ 38. "Restricted-use pesticide" means any pesticide
20 classified for restricted use by the United States Environmental
21 Protection Agency, either by regulation or through the registration
22 process, or by the Board pursuant to the Oklahoma Agricultural Code;
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1 ~~38.~~ 39. "Restricted-use pesticide dealer" means any person
2 engaged in the sale, storage, or distribution of restricted-use
3 pesticides;

4 ~~39.~~ 40. "Rodenticide" means any pesticide intended for
5 preventing, destroying, repelling, or mitigating rodents or any
6 other animal which the Board declares a pest;

7 ~~40.~~ 41. "Service technician" means a person employed by a
8 licensed commercial or noncommercial applicator who applies the
9 pesticide or employs a device, but is not a certified applicator. A
10 service technician or certified applicator shall be present at each
11 application performed;

12 ~~41.~~ 42. "Temporary certified applicator" means a person who has
13 successfully completed the written examinations required for
14 certification but has not successfully completed the practical
15 examination;

16 ~~42.~~ 43. "Use" means transportation, storage, mixing,
17 application, safe handling, waste and container disposal, and other
18 specific instructions contained on the label and labeling;

19 ~~43.~~ 44. "Weed" means any plant or plant part which grows where
20 not wanted; and

21 ~~44.~~ 45. "Wood infestation report" means a document issued with
22 a property transaction which shall, at a minimum, contain statements
23 or certifications as to the presence or absence of termites and any
24 other wood destroying insects, and the presence or absence of

1 damage. The wood infestation report does not include a bid or
2 proposal for treatment.

3 SECTION 2. AMENDATORY 2 O.S. 2011, Section 3-85, as
4 amended by Section 3, Chapter 280, O.S.L. 2014 (2 O.S. Supp. 2019,
5 Section 3-85), is amended to read as follows:

6 Section 3-85. A. 1. The State Board of Agriculture shall
7 administer and enforce the provisions of the Oklahoma Combined
8 Pesticide Law.

9 2. The State Board of Agriculture shall promulgate rules and
10 standards for the application, use or sale of pesticides, rules for
11 pesticide registration, standards for contracts and recordkeeping,
12 work performance, prescribe standards for the licensing of
13 application of pesticides, issuing pesticide dealer permits,
14 certification, recertification procedures, heat as a method of pest
15 control and storing and disposal of pesticide and pesticide
16 containers.

17 3. The Board shall, to the extent practical, create uniformity
18 between the requirements of Oklahoma and those prescribed by the
19 Federal Insecticide, Fungicide and Rodenticide Act.

20 4. The Board is empowered to cooperate with and negotiate
21 reciprocal agreements with the federal government or any state, or
22 any department or agency of either for the purpose of fulfilling the
23 intent of this section and securing uniformity of rules.
24

1 5. The Board may inspect any work, records, or contracts of
2 each applicator, manufacturer, or dealer to determine whether or not
3 the work is performed according to the provisions of this section or
4 rules promulgated thereunder.

5 6. For the purpose of securing uniformity of rules, no city,
6 town, county, or other political subdivision of this state shall
7 adopt or continue in effect any ordinance, rule, regulation, or
8 statute regarding pesticide sale or use that is more stringent than
9 the rules of the Board, including, but not limited to, registration,
10 notification, posting, advertising and marketing, distribution,
11 applicator training and certification, storage, transportation,
12 disposal, disclosure of confidential information, or product
13 composition.

14 7. The Board may take samples of pesticide materials in order
15 to determine their concentration or residue level. If the Board
16 finds that such samples are not within established standards, the
17 Board's finding shall be considered prima facie evidence that a
18 violation has occurred.

19 a. The concentration of an active ingredient for a
20 pesticide concentrate, shall not exceed or be less
21 than the concentration of active ingredient stated on
22 the pesticide label by more or less than the tolerance
23 for active ingredient concentration specified by this
24 paragraph. Concentrations above or below the
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1 established tolerance shall be prima facie evidence
2 that a pesticide is adulterated or misbranded:

3 (1) pesticides with a stated concentration of active
4 ingredient less than 0.51% shall not exceed 150%
5 or fail to meet 80% of the stated active
6 ingredient on the pesticide label when analyzed,

7 (2) pesticides with a stated concentration of active
8 ingredient not less than 0.51% and not more than
9 1.0% shall not exceed 140% or fail to meet 85% of
10 the stated active ingredient on the pesticide
11 label when analyzed,

12 (3) pesticides with a stated concentration of active
13 ingredient not less than 1.01% and not more than
14 5.00% shall not exceed 140% or fail to meet 90%
15 of the stated active ingredient on the pesticide
16 label when analyzed,

17 (4) pesticides with a stated concentration of active
18 ingredient not less than 5.01% and not more than
19 10.00% shall not exceed 130% or fail to meet 92%
20 of the stated active ingredient on the pesticide
21 label when analyzed,

22 (5) pesticides with a stated concentration of active
23 ingredient not less than 10.01% and not more than
24 50.00% shall not exceed 125% or fail to meet 94%

1 of the stated active ingredient on the pesticide
2 label when analyzed, and

3 (6) pesticides with a stated concentration of active
4 ingredient not less than 50.01% and more than
5 100.00% shall not exceed 115% or fail to meet 96%
6 of the stated active ingredient on the pesticide
7 label when analyzed.

8 b. The concentration of an active ingredient for a
9 pesticide concentrate in fertilizer and pesticide
10 mixtures, pressed blocks and nonuniform baits shall
11 not be less than the concentration of active
12 ingredient stated on the pesticide label for the
13 tolerance for active ingredient concentration
14 specified by this paragraph. Concentrations below the
15 established tolerance shall be prima facie evidence
16 that a pesticide is adulterated or misbranded:

17 (1) when the stated concentration of active
18 ingredient on the pesticide label is less than
19 1.26% the minimum amount of active ingredient
20 shall be at least 67.0% of the stated
21 concentration on the pesticide label when
22 analyzed,

23 (2) when the stated concentration of active
24 ingredient on the pesticide label is not less

1 than 1.26% or more than 5.0% the minimum amount
2 of active ingredient shall be at least 80.0% of
3 the stated concentration on the pesticide label
4 when analyzed, and

5 (3) when the stated concentration of active
6 ingredient on the pesticide label is more than
7 5.0% the minimum amount of active ingredient
8 shall be at least 85.0% of the stated
9 concentration on the pesticide label when
10 analyzed.

11 c. The concentration of an active ingredient for a
12 pesticide concentrate in rotenone, pyrethrin and other
13 natural product formulations shall not be less than
14 the concentration of active ingredient stated on the
15 pesticide label for the tolerance for active
16 ingredient concentration specified by this paragraph.
17 Concentrations below the established tolerance shall
18 be prima facie evidence that a pesticide is
19 adulterated or misbranded:

20 (1) when the stated concentration of active
21 ingredient on the pesticide label is less than
22 0.51% the minimum amount of active ingredient
23 shall be at least 70.0% of the state
24

1 concentration on the pesticide label when
2 analyzed,

3 (2) when the stated concentration of active
4 ingredient on the pesticide label is not less
5 than 0.51% or more than 1.25% the minimum amount
6 of active ingredient shall be at least 80.0% of
7 the stated concentration on the pesticide label
8 when analyzed, and

9 (3) when the stated concentration of active
10 ingredient on the pesticide label is more than
11 1.25% the minimum amount of active ingredient
12 shall be at least 85.0% of the stated
13 concentration on the pesticide label when
14 analyzed.

15 d. The concentration of an active ingredient for a
16 pesticide tank mix, as stated by the applicator and
17 allowed by the pesticide label, shall not exceed or be
18 less than the concentration of active ingredient
19 stated by more or less than the tolerance for active
20 ingredient concentration specified by this paragraph.
21 Concentrations above or below the established
22 tolerance shall be prima facie evidence of a use
23 unsuitable, unsafe or inconsistent with its label or
24 labeling. No pesticide shall be formulated into a

1 tank mix at a concentration in excess of or below that
2 permitted by the pesticide label without written
3 approval from an authorized agent of the Oklahoma
4 Department of Agriculture, Food, and Forestry:

5 (1) when the stated concentration or that allowed by
6 the pesticide label is less than 0.51% the
7 minimum amount of active ingredient in the tank
8 mix shall be at least 60.0% and not more than
9 150.0% of the stated concentration or that
10 allowed by the pesticide label when analyzed,

11 (2) when the stated concentration or that allowed by
12 the pesticide label is not less than 0.51% and
13 not more than 1.0% the minimum amount of active
14 ingredient in the tank mix shall be at least
15 70.0% and not more than 140.0% of the stated
16 concentration or that allowed by the pesticide
17 label when analyzed,

18 (3) when the stated concentration or that allowed by
19 the pesticide label is not less than 1.01% and
20 not more than 5.0% the minimum amount of active
21 ingredient in the tank mix shall be at least
22 80.0% and not more than 140.0% of the stated
23 concentration or that allowed by the pesticide
24 label when analyzed,

1 (4) when the stated concentration or that allowed by
2 the pesticide label is not less than 5.01% and
3 not more than 10.0% the minimum amount of active
4 ingredient in the tank mix shall be at least
5 84.0% and not more than 130.0% of the stated
6 concentration or that allowed by the pesticide
7 label when analyzed,

8 (5) when the stated concentration or that allowed by
9 the pesticide label is not less than 10.01% and
10 not more than 50.0% the minimum amount of active
11 ingredient in the tank mix shall be at least
12 88.0% and not more than 125.0% of the stated
13 concentration or that allowed by the pesticide
14 label when analyzed, and

15 (6) when the stated concentration or that allowed by
16 the pesticide label is not less than 50.01% and
17 not more than 100.0% the minimum amount of active
18 ingredient in the tank mix shall be at least
19 92.0% and not more than 115.0% of the stated
20 concentration or that allowed by the pesticide
21 label when analyzed.

22 e. The State Board of Agriculture may promulgate, by
23 rule, maximum and minimum concentrations or thresholds
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1 for the other concentrate of pesticides in products,
2 or soil residues.

3 B. Authorized agents of the Board shall have the authority to
4 issue notices of violation, citations, compliance orders, stop
5 sales, or stop work orders to those persons committing violations of
6 the laws or rules relating to pesticides or pesticide application in
7 this state.

8 C. 1. Examinations of pesticides or devices shall be made
9 under the direction of the Board for the purpose of determining if
10 there has been compliance with the requirements of this section.

11 2. If it appears from examination that a pesticide or device
12 fails to comply with the provisions of this section, and the Board
13 contemplates instituting administrative proceedings against any
14 person, the Board shall cause notice and an opportunity for a
15 hearing be given to the person pursuant to the Administrative
16 Procedures Act.

17 D. 1. Any pesticide or device distributed, sold, or offered
18 for sale within this state or delivered for transportation or
19 transported in intrastate or interstate commerce may be seized by
20 the Oklahoma Department of Agriculture, Food, and Forestry in any
21 county of the state where it may be found and if:

22 a. in the case of a pesticide, it is adulterated or
23 misbranded, it has not been registered, it fails to
24 bear on its label the required information, or it is a

1 white powder pesticide and it is not colored as
2 required, or

3 b. in the case of a device, it is misbranded.

4 2. If the pesticide or device is condemned it shall, after
5 entry of decree or judgment of a district court, be disposed of by
6 destruction or sale as the court may direct. If the article is
7 sold, the proceeds, less court costs, shall be paid to the State
8 Department of Agriculture Revolving Fund.

9 3. The court shall not order the sale or disposal of a
10 condemned pesticide or device in a manner which would be a violation
11 of this section or rules promulgated thereto.

12 4. The person or entity directed to dispose or sell the
13 condemned pesticide or device shall do so in a manner that complies
14 with the order of the district court and this section and rules
15 promulgated thereto.

16 5. The court may direct that the pesticide or article be
17 delivered to the owner for relabeling or reprocessing.

18 6. If there is a person who is successful in intervening as
19 claimant of the pesticide or device, when a decree of judgment of
20 condemnation is entered against the pesticide or device, court
21 costs, fees, storage, and other proper expenses shall be awarded
22 against such claimant.

1 E. The Board may, by publication in a manner as it may
2 prescribe, give notice of all judgments entered in action,
3 instituted under its authority.

4 F. All authority vested in the Board shall with like force and
5 effect be executed by its officers, employees, and authorized
6 agents.

7 G. EXCEPTION - The fines provided for violations may not apply
8 to:

9 1. Any carrier while lawfully engaged in transporting a
10 pesticide within this state, if the carrier permits the Board upon
11 request to copy all records showing the transaction in and movement
12 of the pesticide and devices involved;

13 2. Public officials of this state and of the Federal Government
14 engaged in the performance of official duties;

15 3. The manufacturer or shipper of a pesticide or device for
16 experimental use only, by or under the supervision of an agency of
17 this state or of the Federal Government authorized by law to conduct
18 research in the field of pesticides or devices, or by others if the
19 pesticide or the device is not sold or if the container is plainly
20 and conspicuously marked "for experimental use only - not to be
21 sold", together with the manufacturer's name and address, if a
22 written permit has been obtained from the Board. Pesticides or
23 devices may be sold for experimental purposes subject to
24 restrictions set forth in the permit; and

1 4. Pesticides and devices intended solely for export to a
2 foreign country, and prepared or packed according to the
3 specifications or directions of the purchaser. If not exported, all
4 of the provisions of this section shall apply.

5 H. 1. The Department of Environmental Quality shall have
6 environmental jurisdiction over:

- 7 a. commercial manufacturers of fertilizers, grain and
8 feed products, and chemicals, and over manufacturing
9 of food and kindred products, tobacco, paper, lumber,
10 wood, textile mill and other agricultural products,
- 11 b. slaughterhouses, but not including feedlots at these
12 facilities, and
- 13 c. aquaculture and fish hatcheries, including, but not
14 limited to, discharges of pollutants and storm water
15 to waters of the state, surface impoundments and land
16 application of wastes and sludge, and other pollution
17 originating at these facilities; and

18 2. Facilities which store grain, feed, seed, fertilizer, and
19 agricultural chemicals that are required by federal National
20 Pollutant Discharge Elimination Systems (NPDES) regulations to
21 obtain a permit for storm water discharges shall only be subject to
22 the jurisdiction of the Department of Environmental Quality with
23 respect to such storm water discharges.

1 I. This section shall not prevent any political subdivision
2 from complying with any applicable federal law or regulation. A
3 political subdivision which takes any action prohibited by this
4 title in order to comply with federal requirements shall notify the
5 Board of its compliance plan prior to taking any action. The Board
6 may assist the political subdivision in complying with federal
7 requirements necessary to carry out the policy of this section. The
8 Board may permit a political subdivision to impose standards more
9 stringent than required by the Board if necessary for the political
10 subdivision to comply with federal requirements.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3-85.1 of Title 2, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Only commercial applicators shall perform heat as a method
15 of pest control.

16 B. Heat as a method of pest control may be used to treat and
17 control bed bugs or other insects in:

- 18 1. A whole structure;
- 19 2. An apartment unit, a room or a portion of a room; and
- 20 3. A compartment containing furniture and possessions.

21 C. Prior to and when conducting heat as a method of pest
22 control, commercial applicators shall:

1 1. Comply with applicable fire codes, and local ordinances
2 regarding the use of portable heaters, fire suppression systems and
3 other heat treatment related concerns;

4 2. Only use equipment designed and tested for use as an insect
5 control device for a whole structure, whole room or apartment unit
6 bed bug heat treatment;

7 3. Carefully inspect heat equipment before use to ensure that
8 it is in proper working order and no foreseeable fire hazards exist;

9 4. When conducting whole room heat treatment, ensure that the
10 equipment has the capacity to raise and hold the temperature in the
11 treated area to a level lethal to bed bugs of at least one hundred
12 twenty (120) degrees Fahrenheit;

13 5. Ensure, through the use of heat sensors, that bed bug
14 harborage areas are raised to a lethal temperature of at least one
15 hundred twenty (120) degrees Fahrenheit and held for a sufficient
16 period of time to kill all bed bugs and eggs depending on the size
17 of the area being treated;

18 6. Place sensors in areas that are insulated or slower to heat
19 to ensure the lethal temperature is reached;

20 7. Monitor ambient air and surface temperature to avoid damage
21 to heat sensitive items; and

22 8. Have at least one commercial applicator on-site and have one
23 or more additional employees working under the direct supervision of
24 a commercial applicator.

1 SECTION 4. This act shall become effective November 1, 2020.

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3 57-2-3304 QD 1/15/2020 11:32:39 PM
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