

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB254

Hearing Date: Tuesday February 10, 2009
Committee On: Agriculture
Introducer: Dubas
One Liner: Require a Nebraska aerial pesticide business license for aerial pesticide application

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Carlson, Council, Dierks, Dubas, Price, Schilz, Wallman
Nay:		
Absent:	1	Senator Karpisek
Present Not Voting:		

Proponents:

Senator Annette Dubas
Doug Johnson
Gerald Adams
Sandi Decker

Jack Moors
Casey Williams
Dave Mlnarik
Chip Coslor

Representing:

Introducer
Nebraska Aviation Trades Association
Norfolk Airport Authority
Fairbury Municipal Airport/Nebraska Association of Airport Officials
Nebraska Corn Growers/Syngenta Seed
Nebraska Aviation Trades Association
Nebraska Sports Council
Nebraska Aviation Trades Association

Opponents:

Representing:

Neutral:

Marvin Wiles

Representing:

Wiles Brothers Fertilizer, Inc.

Summary of purpose and/or changes:

LB 254 Inserts a new aerial pesticide business license within the Nebraska Pesticide Act and requires licensure to apply pesticides by use of an aircraft or to arrange aerial spraying operations. Sections 2-6 of the bill insert wholly new sections into the Nebraska Pesticide Act to create a new aerial pesticide applicator business license category and to require licensure to perform or cause aerial spraying operations to occur. The elements of the licensure program include the following:

Section 2 of the bill prohibits application of pesticides by use of an aircraft, or the act of causing or arranging aerial pesticide applications to occur on the property of another, unless the person performing these acts and the principal departure location of aircraft used for such purpose are licensed as an aerial pesticide business. Clarifications of this requirement of licensure contained in this section include:

*Aerial applicators whose principal departure location is located outside the state may obtain a Nebraska aerial applicator business license for the out-of-state departure location.

*Individual commercial applicators must perform actual aerial applications under direct supervision of a licensed entity or obtain an aerial pesticide business license.

*Persons causing or arranging aerial pesticide applications is defined to include persons billing and collecting payment for aerial spraying services, employing or contracting pilots, assigning spraying assignments to pilots or compensating pilots.

*The requirements of licensure do not apply to governmental entities performing aerial spraying operations utilizing public aircraft.

Section 3 requires an aerial pesticide business license to be obtained prior to commencement of aerial spraying operations and applications for renewal of licensure to be submitted by January 1 of each year. The bulk of Section 3 sets forth the requirements for obtaining licensure as follows:

*Imposes a license fee of a) \$50 for applicants whose principle aircraft departure location is located within Nebraska and b) \$250 for applicants whose principle departure location is located outside of Nebraska plus \$50 for each additional departure location utilized for spraying operations in the state. The fee may be adjusted by the director within a statutory cap of \$100 for in-state principle departure location and \$500 for an out-of-state principle departure location, and \$100 for additional departure locations.

*An application for licensure shall include the following information: a) the applicant's name and mailing address, social security number if the applicant is an individual, and the names of partners or members or principle officers if the applicant is a business entity.

*The location of the principle departure location identified by airport identifier, global positioning system coordinates, or local address.

*A copy of the applicant's agricultural aircraft operations certification, and the aircraft registration number of aircraft utilized by the licensee issued under applicable regulations of the Federal Aviation Administration

*The Nebraska commercial applicator certificate number and FAA commercial pilot certification number of persons operating aircraft on behalf of the licensee

*Other information as deemed necessary by the Director

*If the applicant is not located within Nebraska, the designation of a resident agent or designation of the Secretary of State to receive service of process upon the applicant in this state.

Section 4 requires licensees to immediately report utilization of pilots, aircraft and departure locations that differs from, or is in addition to, information provided in the initial or annual licensure renewal application, including approximate dates of hire of additional pilots utilized only for temporary or seasonal work.

Section 5 expressly provides that aerial pesticide business licensees are responsible for action of persons applying pesticides under the license holder's direction and supervision.

Section 6 imposes a duty of licensees to maintain records of pesticide applications and expressly grants authority to the Department to promulgate regulations regarding information to be maintained in the licensee's records.

Conforming or complimentary revisions to aid enforcement of the aerial applicator licensure requirements in section 2-6 of the bill are made to the duties and authorities of the Department of Agriculture enumerated in Section 2-2626 and in the enumeration of unlawful acts under Section 2-2646.

The bill contains the emergency clause and an operative date of May 1, 2009.

Explanation of Committee Amendments, if any:

