

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE APRIL 24, 2014

SENATE BILL

No. 1244

Introduced by Senator Lieu

(Principal coauthor: Assembly Member Bonilla)

February 20, 2014

An act to amend Sections ~~8504~~, 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8507.1, 8514, 8518, 8520, 8528, 8551.5, 8560, 8562, 8564, 8564.6, 8565, 8566, 8567, 8590, 8593.1, 8612, 8613, 8617, 8622, 8643, 8647, 8651, 8660, and 8673 of, to repeal Sections 8505.6, 8565.6, and 8590.1 of, and to add Sections 8504.1 and 8672.1 to, *and to repeal Sections 8505.6, 8565.6, and 8590.1 of* the Business and Professions Code, relating to the Structural Pest Control Board.

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, as amended, Lieu. Structural Pest Control Board.

Existing law, until January 1, 2015, establishes the Structural Pest Control Board, within the Department of Consumer Affairs, and authorizes the Director of Consumer Affairs to appoint a registrar to be the executive officer of the board. The board is required to license and regulate structural pest control operators, as specified.

This bill would extend the operation of those provisions until January 1, 2019.

Existing law provides, in pertinent part, that structural pest control includes, with respect to household pests and wood destroying pests or organisms, or other pests which may invade households or other structures, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, among other things, the identification of infestations, or the use of insecticides, pesticides, rodenticides,

fumigants, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of those pests, or organisms. Under existing law, an applicator's license expires 3 years from the date the license is issued.

This bill would define the term "pesticide" to include any spray adjuvant and any substance, or mixture of substances, which is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism, and would make conforming changes pertaining to that definition. The bill would ~~prohibit a limited liability company from providing structural pest control services~~, delete obsolete provisions pertaining to the definition of fumigants and fumigation procedures, and would conform notice provisions relating to fumigation to other provisions of law. The bill would authorize, in specified circumstances, waiving the use of warning agents in conjunction with fumigants. The bill would provide that an applicator's license instead would expire on June 30 of the 3rd year after issuance.

Existing law authorizes suspension and fines to be imposed on a registered structural pest control company for specified violations.

This bill would provide that the time for an action for a suspension or fine against a structural pest control licensee or registered company would be 2 years from the date of the violation, provided however, that when an agricultural commissioner submits a completed investigation to the Structural Pest Control Board, as specified, the action would be required to be brought within one year of the commissioner's submission.

Existing law establishes a disciplinary review committee, in connection with disciplinary procedures against structural pest control licensees and registered companies, which requires as a member of the committee, a person representing the Secretary of Food and Agriculture.

This bill would instead require as a member of the committee, a person who represents the Director of Pesticide Regulation.

The bill would make additional conforming and technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 8504 of the Business and Professions~~
- 2 ~~Code is amended to read:~~

1 ~~8504. “Person” includes an individual, firm, partnership,~~
2 ~~corporation, association or other organization or any combination~~
3 ~~thereof.~~

4 ~~SEC. 2.~~

5 ~~SECTION 1.~~ Section 8504.1 is added to the Business and
6 Professions Code, to read:

7 8504.1. “Pesticide” includes any of the following:

8 (a) Any spray adjuvant.

9 (b) Any substance, or mixture of substances, which is intended
10 to be used for preventing, destroying, repelling, or mitigating any
11 pest or organism.

12 ~~SEC. 3.~~

13 ~~SEC. 2.~~ Section 8505 of the Business and Professions Code is
14 amended to read:

15 8505. (a) “Structural pest control” and “pest control” as used
16 in this chapter are synonymous. Except as provided in Section
17 8555 and elsewhere in this chapter, it is, with respect to household
18 pests and wood destroying pests or organisms, or other pests that
19 may invade households or other structures, including railroad cars,
20 ships, docks, trucks, airplanes, or the contents thereof, the engaging
21 in, offering to engage in, advertising for, soliciting, or the
22 performance of, any of the following:

23 (1) Identification of infestations or infections.

24 (2) The making of an inspection or inspections for the purpose
25 of identifying or attempting to identify infestations or infections
26 of household or other structures by those pests or organisms.

27 (3) The making of inspection reports, recommendations,
28 estimates, and bids, whether oral or written, with respect to those
29 infestations or infections.

30 (4) The making of contracts, or the submitting of bids for, or
31 the performance of any work including the making of structural
32 repairs or replacements, or the use of pesticides, or mechanical
33 devices for the purpose of eliminating, exterminating, controlling
34 or preventing infestations or infections of those pests, or organisms.

35 (b) “Household pests” are defined for the purpose of this chapter
36 as those pests other than wood destroying pests or organisms,
37 which invade households and other structures, including, but not
38 limited to, rodents, vermin, and insects.

1 ~~SEC. 4.~~

2 *SEC. 3.* Section 8505.1 of the Business and Professions Code
3 is amended to read:

4 8505.1. (a) Except as provided in subdivisions (b) and (c), for
5 the purpose of this act, “fumigation” shall be defined as the use
6 within an enclosed space for the destruction of plant or animal life,
7 a substance having a vapor pressure greater than 5 millimeters of
8 mercury at 25 degrees centigrade when the substance is labeled
9 for those purposes.

10 The following is a list of lethal fumigants:

- 11 (1) Methyl bromide.
- 12 (2) Sulfuryl fluoride.
- 13 (3) Aluminum phosphide.

14 The board may adopt, and may as necessary amend, by
15 regulation, a list of fumigants.

16 (b) For the purpose of this act, “warning agent” is any agent
17 used in combination with any fumigant that lacks warning
18 properties.

19 The following is a warning agent:

- 20 Chloropicrin.

21 The board may adopt, and may as necessary amend, by
22 regulation, a list of warning agents.

23 (c) For the purpose of this act “simple asphyxiants” shall not
24 be deemed to be fumigants.

25 The following is a list of simple asphyxiants:

- 26 (1) Liquid nitrogen.
- 27 (2) Carbon dioxide.

28 The board may adopt, and may as necessary amend, by
29 regulation, a list of simple asphyxiants.

30 ~~SEC. 5.~~

31 *SEC. 4.* Section 8505.2 of the Business and Professions Code
32 is amended to read:

33 8505.2. Fumigation shall be performed only under the direct
34 and personal supervision of an individual who is licensed by the
35 board as an operator or field representative in Branch 1 as set forth
36 in Section 8560.

37 ~~SEC. 6.~~

38 *SEC. 5.* Section 8505.5 of the Business and Professions Code
39 is amended to read:

1 8505.5. (a) Notice of the date and place of fumigation, and
2 chemicals to be used, shall be given by the fumigator to the fire
3 department serving the area in which fumigation is to be performed
4 not less than two hours prior to the time fumigation begins. The
5 fire department shall not charge any fees for any service related
6 to structural pest control activities except for the costs of an
7 emergency response necessitated by illegal or negligent actions.

8 (b) Notice of each fumigation to be performed shall be given
9 to the commissioner in the county in which the job is to be
10 performed. The notice, which may be mailed or given by telephone,
11 at the option of the commissioner, shall be given at least 24 hours
12 prior to the time fumigation begins, unless the commissioner
13 determines that less time is sufficient. A fee shall not be assessed
14 for processing this notice.

15 ~~SEC. 7.~~

16 *SEC. 6.* Section 8505.6 of the Business and Professions Code
17 is repealed.

18 ~~SEC. 8.~~

19 *SEC. 7.* Section 8505.10 of the Business and Professions Code
20 is amended to read:

21 8505.10. Warning signs shall be printed in red on white
22 background and shall contain the following statement in letters
23 not less than two inches in height: "DANGER—FUMIGATION."
24 They shall also depict a skull and crossbones not less than one
25 inch in height and shall state in letters not less than one-half inch
26 in height the name of the fumigant. These signs shall also include
27 in legible ink of any color, the date and time fumigant was injected,
28 and the name, address, and telephone number of the registered
29 company performing the fumigation. Warning signs placed under
30 a tarpaulin shall not be required to state the time the fumigant was
31 injected.

32 ~~SEC. 9.~~

33 *SEC. 8.* Section 8505.12 of the Business and Professions Code
34 is amended to read:

35 8505.12. A registered company performing fumigation shall
36 use an adequate warning agent with all fumigants which lack those
37 properties. There may be circumstances in which the use of
38 chloropicrin is not possible due to its unknown effects on sensitive
39 items, including, but not limited to, artifacts in museums or in
40 police evidence storage. In these circumstances, waiving the use

1 of chloropicrin shall be approved by the state regulatory authority
2 and documented in advance and shall include alternative safety
3 precautions which address initial clearance of the site to be
4 fumigated, potential movement of the fumigant to unattended
5 areas, and continued site security. When conditions involving
6 abnormal hazards exist, the licensee exercising direct and personal
7 supervision shall take those safety precautions in addition to those
8 prescribed by this chapter as are reasonably necessary to protect
9 the public health and safety.

10 ~~SEC. 10.~~

11 *SEC. 9.* Section 8505.14 of the Business and Professions Code
12 is amended to read:

13 8505.14. “Fumigator” means any individual licensed by the
14 board as a structural pest control operator or as a structural pest
15 control field representative in Branch 1 as set forth in Section 8560.

16 ~~SEC. 11.~~

17 *SEC. 10.* Section 8507.1 of the Business and Professions Code
18 is amended to read:

19 8507.1. (a) (1) “Structural pest control applicator” is any
20 individual who is licensed by the board to apply pesticides in
21 Branch 2 or Branch 3 on behalf of a registered company.

22 (2) A structural pest control applicator shall not contract for
23 pest control work or perform pest control work in his or her own
24 behalf.

25 (b) As used in this chapter, “applicator” refers to “structural
26 pest control applicator.”

27 ~~SEC. 12.~~

28 *SEC. 11.* Section 8514 of the Business and Professions Code
29 is amended to read:

30 8514. (a) A Branch 2 or 3 registered company shall not
31 commence work on a contract, or sign, issue, or deliver any
32 documents expressing an opinion or statement relating to the
33 control of household pests, or wood destroying pests or organisms
34 until the registered company has completed an inspection.

35 (b) Notwithstanding any provision of this chapter, after an
36 inspection has been made, a registered company which holds a
37 branch registration for the control of household pests, or wood
38 destroying pests or organisms, but whose branch registration
39 restricts the method of eradication or control permitted, may
40 recommend and enter into a contract for the eradication or control

1 of pests within the scope of its branch registration, provided that
2 it subcontracts, in writing, the actual performance of the work to
3 a registered company which holds a branch registration authorizing
4 the particular method to be used.

5 (c) A registered company may subcontract, in writing, any pest
6 control work for which it is registered in any branch or branches
7 to a registered company holding a valid branch registration to do
8 that work.

9 (d) Nothing in this chapter shall be construed to prohibit a
10 registered company or the consumer from subcontracting with a
11 licensed contractor to do any work authorized under Section 8556.

12 (e) A registered company shall not subcontract structural
13 fumigation work, as permitted in this section, without the written
14 consent of the consumer. The consumer shall be informed in
15 advance, in writing, of any proposed work which the registered
16 company intends to subcontract and of the consumer's right to
17 select another person or entity of the consumer's choosing to
18 perform the work. The consumer may authorize the subcontracting
19 of the work as proposed or may contract directly with another
20 registered company licensed to perform the work. Nothing in this
21 paragraph shall be construed to eliminate any otherwise applicable
22 licensure requirements, nor permit a licensed contractor to perform
23 any work beyond that authorized by Section 8556.

24 (f) Nothing contained in this section shall permit or authorize
25 a registered company to perform, attempt to perform, advertise or
26 hold out to the public or to any person that it is authorized,
27 qualified, or registered to perform, pest control work in a branch,
28 or by a method, for which it is not registered, except that a Branch
29 2 or Branch 3 registered company may advertise fumigation or
30 any all encompassing treatment described in paragraph (8) of
31 subdivision (a) of Section 1991 of Title 16 of the California Code
32 of Regulations if the company complies with the requirements of
33 this section.

34 (g) Subcontracting of work, as permitted in this section, shall
35 not relieve the prime contractor or the subcontractor from
36 responsibility for, or from disciplinary action because of, an act
37 or omission on its part, which would otherwise be a ground for
38 disciplinary action. However, the registered company making the
39 initial proposal including proposed work that the registered
40 company intends to subcontract shall not be subject to disciplinary

1 action or otherwise responsible for an act or omission in the
2 performance of the work that the consumer directly contracts with
3 another registered company, person, or entity to perform, as
4 permitted by this section. All home solicitation contracts shall
5 comply with Chapter 2 (commencing with Section 1688) of Title
6 5 of Part 2 of Division 3 of the Civil Code.

7 ~~SEC. 13.~~

8 *SEC. 12.* Section 8518 of the Business and Professions Code
9 is amended to read:

10 8518. (a) When a registered company completes work under
11 a contract, it shall prepare, on a form prescribed by the board, a
12 notice of work completed and not completed, and shall furnish
13 that notice to the owner of the property or the owner's agent within
14 10 business days after completing the work. The notice shall
15 include a statement of the cost of the completed work and estimated
16 cost of work not completed.

17 (b) The address of each property inspected or upon which work
18 was completed shall be reported on a form prescribed by the board
19 and shall be filed with the board no later than 10 business days
20 after completed work.

21 (c) A filing fee shall be assessed pursuant to Section 8674 for
22 every property upon which work is completed.

23 (d) Failure of a registered company to report and file with the
24 board the address of any property upon which work was completed
25 pursuant to subdivision (b) of Section 8516 or Section 8518 is
26 grounds for disciplinary action and shall subject the registered
27 company to a fine of not more than two thousand five hundred
28 dollars (\$2,500).

29 (e) The registered company shall retain for three years all
30 original notices of work completed, work not completed, and
31 activity forms.

32 (f) Notices of work completed and not completed shall be made
33 available for inspection and reproduction to the executive officer
34 of the board or his or her duly authorized representative during
35 business hours. Original notices of work completed or not
36 completed or copies thereof shall be submitted to the board upon
37 request within two business days.

38 ~~SEC. 14.~~

39 *SEC. 13.* Section 8520 of the Business and Professions Code
40 is amended to read:

1 8520. (a) There is in the Department of Consumer Affairs a
2 Structural Pest Control Board, which consists of seven members.

3 (b) Subject to the jurisdiction conferred upon the director by
4 Division 1 (commencing with Section 100), the board is vested
5 with the power to and shall administer the provisions of this
6 chapter.

7 (c) It is the intent of the Legislature that consumer protection
8 is the primary mission of the board.

9 (d) This section shall remain in effect only until January 1, 2019,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2019, deletes or extends that date.
12 Notwithstanding any other law, the repeal of this section renders
13 the board subject to review by the appropriate policy committees
14 of the Legislature.

15 ~~SEC. 15.~~

16 *SEC. 14.* Section 8528 of the Business and Professions Code
17 is amended to read:

18 8528. (a) With the approval of the director, the board shall
19 appoint a registrar, fix his or her compensation, and prescribe his
20 or her duties.

21 (b) The registrar is the executive officer and secretary of the
22 board.

23 (c) This section shall remain in effect only until January 1, 2019,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2019, deletes or extends that date.

26 ~~SEC. 16.~~

27 *SEC. 15.* Section 8551.5 of the Business and Professions Code
28 is amended to read:

29 8551.5. Except as provided in this chapter, an unlicensed
30 individual in the employ of a registered company shall not apply
31 any pesticides included in Branch 2 or Branch 3. However, an
32 individual may, for 90 days from the date of employment, apply
33 pesticides for the purposes of training under the direct supervision
34 of a licensed field representative or operator employed by the
35 company. This direct supervision means in the presence of the
36 licensed field representative or operator at all times. The 90-day
37 time period may not be extended.

38 ~~SEC. 17.~~

39 *SEC. 16.* Section 8560 of the Business and Professions Code
40 is amended to read:

1 8560. (a) Licenses issued to operators, field representatives,
2 or applicators shall be limited to the branch or branches of pest
3 control for which the applicant has qualified by application and
4 examination.

5 (b) For the purpose of delimiting the type and character of work
6 authorized by the various branch licenses, the practice of pest
7 control is classified into the following branches:

8 (1) Branch 1. Fumigation. The practice relating to the control
9 of household and wood-destroying pests or organisms by
10 fumigation with poisonous or lethal gases.

11 (2) Branch 2. General pest. The practice relating to the control
12 of household pests, excluding fumigation with poisonous or lethal
13 gases.

14 (3) Branch 3. Termite. The practice relating to the control of
15 wood-destroying pests or organisms by the use of insecticides, or
16 structural repairs and corrections, excluding fumigation with
17 poisonous or lethal gases.

18 (c) The board may issue a license for a combination of two or
19 more branches for which an applicant qualifies under the provisions
20 of this chapter, and the combination license shall be considered
21 one license.

22 (d) Unless otherwise authorized by the board, all examinations
23 shall be supplied by the board. All examinations shall be kept for
24 a period of one year, upon the expiration of which these records
25 may be destroyed on order of the board. Each applicant for license
26 as an operator or a field representative shall be designated by a
27 number instead of by name, and the identity thereof shall not be
28 disclosed until the examinations are graded. A person shall not be
29 admitted to the examination room except members of the board,
30 the examining personnel, and the applicants.

31 (e) The board shall make rules and regulations for the purpose
32 of securing fair, impartial, and proper examinations.

33 (f) Licensees may be licensed in other branches upon complying
34 with the requirements for qualification and by examination in those
35 other branches. A failure of the licensee to pass examination in
36 the other branch or branches shall not have any effect on existing
37 licenses.

38 (g) The examination shall be in each of the subjects specified
39 in the branch or branches relating to the respective applications.
40 A license according to the applications shall be granted to any

1 applicant who shall make a general average of not less than 70
2 percent on each of the subjects of the branch or branches.

3 ~~SEC. 18.~~

4 *SEC. 17.* Section 8562 of the Business and Professions Code
5 is amended to read:

6 8562. (a) To obtain an original operator’s license, an applicant
7 shall submit to the registrar an application containing the statement
8 that the applicant desires the issuance of an operator’s license
9 under the terms of this chapter.

10 (b) The application shall be made on forms prescribed by the
11 board and issued by the registrar in accordance with rules and
12 regulations adopted by the board, and shall contain the following:

13 (1) The name of the applicant.

14 (2) Proof satisfactory to the board that the applicant has had
15 actual experience for a period of not less than the time specified
16 opposite the branches of pest control listed below in the employ
17 of a registered company in the State of California in the particular
18 branch or branches of pest control for which the applicant desires
19 to be licensed, or the equivalent of that experience:

20		
21	Branch 1.....	2 years
22	Branch 2.....	2 years
23	Branch 3.....	4 years
24		

25 (c) For the purpose of this subdivision one year shall equal 1,600
26 hours of actual experience in the field.

27 (d) A designation of the branch or branches for which the
28 application is made.

29 (e) The fees prescribed by this chapter.

30 (f) No operator’s license shall be issued to an individual under
31 18 years of age.

32 (g) Effective January 1, 1993, an operator’s license shall not be
33 issued to an individual unless that individual has been licensed as
34 a field representative in the branch in which the individual has
35 applied for an operator’s license for a period of at least one year,
36 in the case of Branches 1 and 2, or for a period of at least two years
37 for Branch 3, or has demonstrated to the satisfaction of the board
38 that he or she has the equivalent of that training and experience.

1 ~~SEC. 19.~~

2 *SEC. 18.* Section 8564 of the Business and Professions Code
3 is amended to read:

4 8564. (a) To obtain an original field representative’s license,
5 an applicant shall submit to the registrar an application containing
6 a statement that the applicant desires the issuance of a field
7 representative’s license under the terms of this chapter.

8 (b) The application shall be made on a form prescribed by the
9 board and issued by the registrar in accordance with rules and
10 regulations adopted by the board, and shall contain the following:

11 (1) The length of time during which the applicant has engaged
12 in any work relating to pest control.

13 (2) The name and place of business of the person who last
14 employed him or her.

15 (3) The name of the person by whom the applicant is employed.

16 (4) The name of the registered company by which the applicant
17 is to be employed.

18 (5) The fees prescribed by this chapter.

19 (c) The board shall not accept any application for a field
20 representative’s license in Branch 1 unless the applicant submits
21 proof satisfactory to the board that he or she has had six months’
22 training and experience in the practice of fumigating with
23 poisonous or lethal gases under the immediate supervision of an
24 individual licensed to practice fumigating, or the equivalent of that
25 training and experience.

26 (d) The board shall not accept any application for a field
27 representative’s license in Branch 2 unless the applicant submits
28 proof satisfactory to the board that he or she has had training and
29 experience in the practice of pesticide application, Branch 2 pest
30 identification and biology, pesticide application equipment, and
31 pesticide hazards and safety practice under the immediate
32 supervision of an operator or field representative licensed in Branch
33 2, or the equivalent of that training and experience.

34 (e) The board shall not accept any application for a field
35 representative’s license in Branch 3 unless the applicant submits
36 proof satisfactory to the board that he or she has had training and
37 experience in the practice of pesticide application, Branch 3 pest
38 identification and biology, pesticide application equipment,
39 pesticide hazards and safety practices, structural repairs, and
40 structural inspection procedures and report writing under the

1 immediate supervision of an operator or field representative
2 licensed in Branch 3, or the equivalent of that training and
3 experience.

4 ~~SEC. 20.~~

5 *SEC. 19.* Section 8564.6 of the Business and Professions Code
6 is amended to read:

7 8564.6. (a) To obtain an original applicator's license, an
8 applicant shall submit to the registrar an application containing a
9 statement that the applicant requests the issuance of an applicator's
10 license under the terms of this chapter.

11 (b) The application shall be made on a form prescribed by the
12 board and issued by the registrar in accordance with rules and
13 regulations adopted by the board and shall contain the following:

14 (1) The name of the registered company by which the applicant
15 is to be employed.

16 (2) The fee prescribed by this chapter.

17 ~~SEC. 21.~~

18 *SEC. 20.* Section 8565 of the Business and Professions Code
19 is amended to read:

20 8565. The board shall ascertain by examination that an
21 applicant for a license as operator is qualified in the use and
22 understanding of all of the following:

23 (a) The English language, including reading and writing.

24 (b) The building and safety laws of the state and any of its
25 political subdivisions, if the branch or branches of pest control for
26 which he or she is applying, require that knowledge.

27 (c) The labor laws of the state.

28 (d) The provisions of this chapter.

29 (e) Pesticides used in pest control, if the branch license or
30 licenses for which he or she is applying, require that knowledge.

31 (f) The theory and practice of the branch or branches of pest
32 control in which the applicant desires to be licensed.

33 (g) Other state laws, safety or health measures, or practices that
34 are reasonably within the scope of structural pest control in the
35 various branches, including an applicant's knowledge of the
36 requirements regarding health effects and restrictions on
37 applications, as set forth in Section 8538.

38 ~~SEC. 22.~~

39 *SEC. 21.* Section 8565.6 of the Business and Professions Code
40 is repealed.

1 ~~SEC. 23.~~

2 *SEC. 22.* Section 8566 of the Business and Professions Code
3 is amended to read:

4 8566. The board shall ascertain by examination that an
5 applicant for a license as field representative is qualified in the use
6 and understanding of the following:

7 (a) The safety laws of the state, if the branch or branches of pest
8 control for which he or she is applying, require that knowledge.

9 (b) The provisions of this chapter.

10 (c) Pesticides used in pest control, if the branch or branches of
11 pest control for which he or she is applying, require that
12 knowledge.

13 (d) The theory and practice of pest control in the branch or
14 branches thereof for which the applicant desires to be licensed.

15 (e) Other state laws, safety or health measures, or practices as
16 are reasonably within the scope of structural pest control in the
17 various branches.

18 ~~SEC. 24.~~

19 *SEC. 23.* Section 8567 of the Business and Professions Code
20 is amended to read:

21 8567. Should a field representative or applicator change his or
22 her employment, or should an operator enter the employ of a
23 registered company, or being already employed by a registered
24 company change his or her employment, or being employed by a
25 registered company leave that employment and enter the pest
26 control business on his or her own behalf, he or she shall notify
27 the registrar on a form prescribed by the board and issued by the
28 registrar in accordance with rules and regulations adopted by the
29 board. The registrar shall register the change in his or her records.

30 ~~SEC. 25.~~

31 *SEC. 24.* Section 8590 of the Business and Professions Code
32 is amended to read:

33 8590. (a) Except as otherwise provided herein, an operator’s,
34 field representative’s, and applicator’s licenses shall expire at 12
35 midnight on June 30 of the third year from the date of issue.

36 (b) An individual licensed in more than one category may
37 request that each license expire on the same date. The date
38 requested shall be the date of the earliest expiration.

39 (c) An operator, field representative, and applicator shall pay a
40 fee for the renewal of his or her license.

1 (d) The board shall on or before the first day of June of each
2 year mail to each operator, field representative, and applicator
3 whose license will expire in that year, addressed to him or her at
4 his or her last known address, a notice that his or her renewal fee
5 is due and payable and that, if not paid by June 30, a penalty will
6 be added thereto.

7 (e) In no case shall the penalty be waived.

8 (f) Upon the receipt of the fee the board shall cause the renewal
9 certificate to be issued.

10 ~~SEC. 26.~~

11 *SEC. 25.* Section 8590.1 of the Business and Professions Code
12 is repealed.

13 ~~SEC. 27.~~

14 *SEC. 26.* Section 8593.1 of the Business and Professions Code
15 is amended to read:

16 8593.1. The board shall require as a condition to the renewal
17 of each applicator's license that the holder thereof submit proof
18 satisfactory to the board that he or she has completed courses of
19 continuing education in pesticide application and use approved by
20 the board or equivalent activity approved by the board. In lieu of
21 submitting that proof, the licenseholder, if he or she so desires,
22 may successfully apply for and pass an appropriate applicator's
23 examination for renewal of a license given by the board.

24 ~~SEC. 28.~~

25 *SEC. 27.* Section 8612 of the Business and Professions Code
26 is amended to read:

27 8612. (a) The licenses of qualifying managers and company
28 registrations shall be prominently displayed in the registered
29 company's office, and no registration issued hereunder shall
30 authorize the company to do business except from the location for
31 which the registration was issued. Each registered company having
32 a branch office or more than one branch office shall be required
33 to display its branch office registration prominently in each branch
34 office it maintains.

35 (b) When a registered company opens a branch office it shall
36 notify the registrar on a form prescribed by the board and issued
37 by the registrar in accordance with rules and regulations adopted
38 by the board. The notification shall include the name of the
39 individual designated as the branch supervisor and shall be

1 submitted with the fee for a branch office prescribed by this
2 chapter.

3 ~~SEC. 29.~~

4 *SEC. 28.* Section 8613 of the Business and Professions Code
5 is amended to read:

6 8613. A registered company which changes the location of its
7 principal office or any branch office or which changes its qualifying
8 manager, branch supervisor, officers, or its bond or insurance shall
9 notify the registrar on a form prescribed by the board of that change
10 within 30 days thereafter. A fee for filing those changes shall be
11 charged in accordance with Section 8674.

12 ~~SEC. 30.~~

13 *SEC. 29.* Section 8617 of the Business and Professions Code
14 is amended to read:

15 8617. (a) The board or county agricultural commissioners,
16 when acting pursuant to Section 8616.4, may suspend the right of
17 a structural pest control licensee or registered company to work
18 in a county for up to three working days or, for a licensee,
19 registered company, or an unlicensed individual acting as a
20 licensee, may levy an administrative fine up to one thousand dollars
21 (\$1,000) or direct the licensee to attend and pass a board-approved
22 course of instruction at a cost not to exceed the administrative fine,
23 or both, for each violation of this chapter or Chapter 14.5
24 (commencing with Section 8698), or any regulations adopted
25 pursuant to these chapters, or Chapter 2 (commencing with Section
26 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5
27 (commencing with Section 14101), or Chapter 7 (commencing
28 with Section 15201) of Division 7 of the Food and Agricultural
29 Code, or any regulations adopted pursuant to those chapters,
30 relating to pesticides. However, any violation determined by the
31 board or the commissioner to be a serious violation as defined in
32 Section 1922 of Title 16 of the California Code of Regulations
33 shall be subject to a fine of not more than five thousand dollars
34 (\$5,000) for each violation. Fines collected shall be paid to the
35 Education and Enforcement Account in the Structural Pest Control
36 Education and Enforcement Fund. Suspension may include all or
37 part of the registered company's business within the county based
38 on the nature of the violation, but shall, whenever possible, be
39 restricted to that portion of a registered company's business in a
40 county that was in violation.

1 (b) A licensee who passes a course pursuant to this section shall
2 not be awarded continuing education credit for that course.

3 (c) Before a suspension action is taken, a fine levied, or a
4 licensee is required to attend and pass a board-approved course of
5 instruction, the person charged with the violation shall be provided
6 a written notice of the proposed action, including the nature of the
7 violation, the amount of the proposed fine or suspension, or the
8 requirement to attend and pass a board-approved course of
9 instruction. The notice of proposed action shall inform the person
10 charged with the violation that if he or she desires a hearing before
11 the commissioner issuing the proposed action to contest the finding
12 of a violation, that hearing shall be requested by written notice to
13 the commissioner within 20 days of the date of receipt of the
14 written notice of proposed action.

15 (d) A notice of the proposed action that is sent by certified mail
16 to the last known address of the person charged shall be considered
17 received even if delivery is refused or the notice is not accepted
18 at that address.

19 (e) If a hearing is requested, notice of the time and place of the
20 hearing shall be given at least 10 days before the date set for the
21 hearing. At the hearing, the person shall be given an opportunity
22 to review the commissioner's evidence and a right to present
23 evidence on his or her own behalf. If a hearing is not requested
24 within the prescribed time, the commissioner may take the action
25 proposed without a hearing.

26 (f) If the person upon whom the commissioner imposed a fine
27 or suspension or required attendance at a board-approved course
28 of instruction requested and appeared at a hearing before the
29 commissioner, the person may appeal the commissioner's decision
30 to the Disciplinary Review Committee and shall be subject to the
31 procedures in Section 8662.

32 (g) If a suspension or fine is ordered, it may not take effect until
33 20 days after the date of the commissioner's decision if no appeal
34 is filed. If an appeal pursuant to Section 8662 is filed, the
35 commissioner's order shall be stayed until 30 days after the
36 Disciplinary Review Committee has ruled on the appeal.

37 (h) Failure of a licensee or registered company to pay a fine
38 within 30 days of the date of assessment or to comply with the
39 order of suspension, unless the citation is being appealed, may
40 result in disciplinary action being taken by the board.

1 (i) If a citation containing a fine is issued to a licensee and it is
2 not contested or the time to appeal the citation has expired and the
3 fine is not paid, the full amount of the assessed fine shall be added
4 to the fee for renewal of that license. A license shall not be renewed
5 without payment of the renewal fee and fine.

6 (j) If a citation containing a fine is issued to a registered
7 company and it is not contested or the time to appeal the citation
8 has expired and the fine is not paid, the board shall not sell to the
9 registered company any pesticide use stamps until the assessed
10 fine has been paid.

11 (k) If a citation containing the requirement that a licensee attend
12 and pass a board-approved course of instruction is not contested
13 or the time to appeal the citation has expired and the licensee has
14 not attended and passed the required board-approved course of
15 instruction, the licensee’s license shall not be renewed without
16 proof of attendance and passage of the required board-approved
17 course of instruction.

18 (l) Once final action pursuant to this section is taken, no other
19 administrative or civil action may be taken by any state
20 governmental agency for the same violation. However, action
21 taken pursuant to this section may be used by the board as evidence
22 of prior discipline, and multiple local actions may be the basis for
23 statewide disciplinary action by the board pursuant to Section
24 8620. A certified copy of the order of suspension or fine issued
25 pursuant to this section or Section 8662 shall constitute conclusive
26 evidence of the occurrence of the violation.

27 (m) If the board is the party issuing the notice of proposed action
28 to suspend or impose a fine pursuant to subdivision (a),
29 “commissioner” as used in subdivisions (c), (f), and (g) includes
30 the board’s registrar.

31 (n) An action brought pursuant to this section shall be
32 commenced by the commissioner within two years of the
33 occurrence of the violation. If a commissioner submits a completed
34 investigation to the board for action by the registrar of the Attorney
35 General, the action shall be commenced within one year of that
36 submission.

37 ~~SEC. 31.~~

38 *SEC. 30.* Section 8622 of the Business and Professions Code
39 is amended to read:

1 8622. (a) When a complaint is accepted for investigation of a
2 registered company, the board, through an authorized
3 representative, may inspect any or all properties on which a report
4 has been issued pursuant to Section 8516 or a notice of completion
5 has been issued pursuant to Section 8518 by the registered company
6 to determine compliance with the provisions of this chapter and
7 the rules and regulations issued thereunder. If the board determines
8 the property or properties are not in compliance, a notice shall be
9 sent to the registered company so stating. The registered company
10 shall have 30 days from the receipt of the notice to bring the
11 property into compliance, unless an extension is authorized by the
12 board, and it shall submit a new original report or completion
13 notice or both and an inspection fee of not more than one hundred
14 twenty-five dollars (\$125) for each property inspected. If a
15 subsequent reinspection is necessary, pursuant to the board's
16 review of the new original report or notice or both, a commensurate
17 reinspection fee shall also be charged. If the board's authorized
18 representative makes no determination or determines the property
19 is in compliance, no inspection fee shall be charged.

20 (b) The notice sent to the registered company shall inform the
21 registered company that if it desires a hearing to contest the finding
22 of noncompliance, the hearing shall be requested by written notice
23 to the board within 20 days of receipt of the notice of
24 noncompliance from the board. If a hearing is not requested
25 pursuant to this section, payment of any assessment shall not
26 constitute an admission of any noncompliance charged.

27 ~~SEC. 32.~~

28 *SEC. 31.* Section 8643 of the Business and Professions Code
29 is amended to read:

30 8643. The negligent handling or use of any pesticide is a ground
31 for disciplinary action.

32 ~~SEC. 33.~~

33 *SEC. 32.* Section 8647 of the Business and Professions Code
34 is amended to read:

35 8647. Failure to comply in the sale or use of pesticides with
36 the provisions of Chapter 2 (commencing with Section 12751) of
37 Division 7 of the Food and Agricultural Code is a ground for
38 disciplinary action.

1 ~~SEC. 34.~~

2 *SEC. 33.* Section 8651 of the Business and Professions Code
3 is amended to read:

4 8651. The performing or soliciting of structural pest control
5 work, the inspecting for structural or household pests, or the
6 applying of any pesticide for the purpose of eliminating,
7 exterminating, controlling, or preventing structural or household
8 pests in branches of pest control other than those for which the
9 operator, field representative, or applicator is licensed or the
10 company is registered is a ground for disciplinary action.

11 ~~SEC. 35.~~

12 *SEC. 34.* Section 8660 of the Business and Professions Code
13 is amended to read:

14 8660. A disciplinary review committee consisting of three
15 members shall be established for the purposes of reviewing appeals
16 of orders issued pursuant to Section 8617. The committee shall be
17 made up of one member representing the Director of Pesticide
18 Regulation and one member representing the board. The third
19 member shall be a licensed pest control operator actively involved
20 in the business of pest control and shall be selected by agreement
21 of the other members.

22 ~~SEC. 36.~~

23 *SEC. 35.* Section 8672.1 is added to the Business and
24 Professions Code, to read:

25 8672.1. (a) As used in this chapter, “original applicator’s
26 license” means an applicator’s license issued for an individual who
27 did not have a license on the preceding June 30.

28 (b) For the purposes of this chapter, a renewal of an applicator’s
29 license means an applicator’s license issued to an individual who
30 had an applicator’s license on June 30 of the preceding renewal
31 period.

32 ~~SEC. 37.~~

33 *SEC. 36.* Section 8673 of the Business and Professions Code
34 is amended to read:

35 8673. License fees shall not be prorated unless an individual
36 licensed as an operator, a field representative, or an applicator
37 requests an earlier expiration date of one of the licenses in
38 accordance with Section 8590. All license and registration fees
39 shall be paid in advance of the issuance of the license or

- 1 registration, and all examination fees shall be paid in advance of
- 2 the examination.

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