

Senate Bill No. 1244

Passed the Senate August 29, 2014

Secretary of the Senate

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8505, 8505.1, 8505.2, 8505.5, 8505.10, 8505.12, 8505.14, 8505.17, 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, 8673, and 8674 of, 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, 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, that 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 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 requires registered structural pest control companies to submit monthly reports to the county agricultural commissioner reporting the name and registration number of each pesticide, the amount used, and the number of applications made. Existing law requires the report to have a pesticide stamp issued by the board, as specified.

This bill would authorize the use of pesticide stamp numbers in addition to pesticide stamps for those purposes. The bill would delete the requirement that the monthly reports specify the number of applications made for a pesticide. The bill would require structural pest control licensees to maintain a copy of the monthly report for 3 years after submission.

Existing law prescribes various fees for licensing, registration, examinations, and other purposes pertaining to structural pest control matters, and authorizes a fee of \$2 for a pesticide use stamp in connection with a monthly pesticide report. Existing law provides that those fees may be deposited in the Structural Pest Control Research Fund, or with a bank or other depository, as specified.

This bill would prescribe a \$2 fee for a pesticide use stamp number. The bill would delete provisions for deposit of the stamp and stamp number fees with a bank or other depository, and would make additional conforming changes.

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 registrar of the Structural Pest Control Board, or the Attorney General, 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.

The bill would incorporate changes to Section 8674 of the Business and Professions Code proposed by both this bill and AB 1685 which would become operative only if both bills are enacted and become effective on or before January 1, 2015, and this bill is enacted last.

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

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

8504.1. "Pesticide" includes any of the following:

- (a) Any spray adjuvant.
- (b) Any substance, or mixture of substances, which is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism.

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

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

- (1) Identification of infestations or infections.
- (2) The making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by those pests or organisms.
- (3) The making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to those infestations or infections.

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

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

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

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

The following is a list of lethal fumigants:

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

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

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

The following is a warning agent:

Chloropicrin.

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

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

The following is a list of simple asphyxiants:

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

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

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

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

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

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

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

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

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

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

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

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack those properties. There may be circumstances in which the use of

chloropicrin is not possible due to its unknown effects on sensitive items, including, but not limited to, artifacts in museums or in police evidence storage. In these circumstances, waiving the use of chloropicrin shall be approved by the state regulatory authority and documented in advance and shall include alternative safety precautions which address initial clearance of the site to be fumigated, potential movement of the fumigant to unattended areas, and continued site security. When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take those safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

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

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

SEC. 10. Section 8505.17 of the Business and Professions Code is amended to read:

8505.17. (a) There is hereby continued in existence in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities

performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide and the amount used. The report shall be submitted to the commissioner by the 10th day of the month following the month of application and a copy shall be maintained by the licensee for a period of three years after the report submission date. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall require a pesticide use stamp or stamp number issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and stamp numbers and for the refund of moneys paid for stamps and stamp numbers which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. A pesticide use stamp or stamp number is not required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

SEC. 11. Section 8507.1 of the Business and Professions Code is amended to read:

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

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

(b) As used in this chapter, "applicator" refers to "structural pest control applicator."

SEC. 12. Section 8514 of the Business and Professions Code is amended to read:

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

(b) Notwithstanding any provision of this chapter, after an inspection has been made, a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but whose branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided that it subcontracts, in writing, the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

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

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

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

(f) Nothing contained in this section shall permit or authorize a registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified, or registered to perform, pest control work in a branch,

or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.

(g) Subcontracting of work, as permitted in this section, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company, person, or entity to perform, as permitted by this section. All home solicitation contracts shall comply with Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3 of the Civil Code.

SEC. 13. Section 8518 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

SEC. 14. Section 8520 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 15. Section 8528 of the Business and Professions Code is amended to read:

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

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

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

SEC. 16. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. Except as provided in this chapter, an unlicensed individual in the employ of a registered company shall not apply any pesticides included in Branch 2 or Branch 3. However, an

individual may, for 90 days from the date of employment, apply pesticides for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 90-day time period may not be extended.

SEC. 17. Section 8560 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

(g) The examination shall be in each of the subjects specified in the branch or branches relating to the respective applications. A license according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches.

SEC. 18. Section 8562 of the Business and Professions Code is amended to read:

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

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

(1) The name of the applicant.

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

Branch 1.....	2 years
Branch 2.....	2 years
Branch 3.....	4 years

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

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

(e) The fees prescribed by this chapter.

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

(g) Effective January 1, 1993, an operator’s license shall not be issued to an individual unless that individual has been licensed as

a field representative in the branch in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

SEC. 19. Section 8564 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

(5) The fees prescribed by this chapter.

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

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

(e) The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and

experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

SEC. 20. Section 8564.6 of the Business and Professions Code is amended to read:

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

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

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

(2) The fee prescribed by this chapter.

SEC. 21. Section 8565 of the Business and Professions Code is amended to read:

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

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

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

(c) The labor laws of the state.

(d) The provisions of this chapter.

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

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

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

SEC. 22. Section 8565.6 of the Business and Professions Code is repealed.

SEC. 23. Section 8566 of the Business and Professions Code is amended to read:

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

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

(b) The provisions of this chapter.

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

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

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

SEC. 24. Section 8567 of the Business and Professions Code is amended to read:

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

SEC. 25. Section 8590 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

SEC. 26. Section 8590.1 of the Business and Professions Code is repealed.

SEC. 27. Section 8593.1 of the Business and Professions Code is amended to read:

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

SEC. 28. Section 8612 of the Business and Professions Code is amended to read:

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

(b) When a registered company opens a branch office it shall notify the registrar on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 29. Section 8613 of the Business and Professions Code is amended to read:

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

SEC. 30. Section 8617 of the Business and Professions Code is amended to read:

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

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

(c) Before a suspension action is taken, a fine levied, or a licensee is required to attend and pass a board-approved course of instruction, the person charged with the violation shall be provided a written notice of the proposed action, including the nature of the

violation, the amount of the proposed fine or suspension, or the requirement to attend and pass a board-approved course of instruction. The notice of proposed action shall inform the person charged with the violation that if he or she desires a hearing before the commissioner issuing the proposed action to contest the finding of a violation, that hearing shall be requested by written notice to the commissioner within 20 days of the date of receipt of the written notice of proposed action.

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

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

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

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

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

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

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

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

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

(m) If the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a), "commissioner" as used in subdivisions (c), (f), and (g) includes the board's registrar.

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

SEC. 31. Section 8622 of the Business and Professions Code is amended to read:

8622. (a) When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines

the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring the property into compliance, unless an extension is authorized by the board, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

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

SEC. 32. Section 8643 of the Business and Professions Code is amended to read:

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

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

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

SEC. 34. Section 8651 of the Business and Professions Code is amended to read:

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

SEC. 35. Section 8660 of the Business and Professions Code is amended to read:

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

SEC. 36. Section 8672.1 is added to the Business and Professions Code, to read:

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

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

SEC. 37. Section 8673 of the Business and Professions Code is amended to read:

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

SEC. 38. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator’s examination fee of not more than twenty-five dollars (\$25).
- (d) An operator’s license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator’s license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).

(g) A branch office registration fee of not more than sixty dollars (\$60).

(h) A field representative's examination fee of not more than fifteen dollars (\$15).

(i) A field representative's license fee of not more than forty-five dollars (\$45).

(j) A field representative's license renewal fee of not more than forty-five dollars (\$45).

(k) An applicator's examination fee of not more than fifteen dollars (\$15).

(l) An applicator's license fee of not more than fifty dollars (\$50).

(m) An applicator's license renewal fee of not more than fifty dollars (\$50).

(n) An activity form fee, per property address, of not more than three dollars (\$3).

(o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).

(r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other law, the fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research.

(2) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(3) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from the Structural Pest Control Board, the structural pest control industry, the Department of Pesticide Regulation, and the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(4) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 38.5. Section 8674 of the Business and Professions Code is amended to read:

8674. The fees prescribed by this chapter are the following:

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than one hundred dollars (\$100).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).
- (e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).
- (f) A company registration fee of not more than one hundred twenty dollars (\$120).
- (g) A branch office registration fee of not more than sixty dollars (\$60).

(h) A field representative's examination fee of not more than seventy-five dollars (\$75).

(i) A field representative's license fee of not more than forty-five dollars (\$45).

(j) A field representative's license renewal fee of not more than forty-five dollars (\$45).

(k) An applicator's examination fee of not more than sixty dollars (\$60).

(l) An applicator's license fee of not more than fifty dollars (\$50).

(m) An applicator's license renewal fee of not more than fifty dollars (\$50).

(n) An activity form fee, per property address, of not more than three dollars (\$3).

(o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).

(r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp or stamp number purchased from the board. Notwithstanding any other law, the fee established pursuant to this subdivision shall be deposited into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research.

(2) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be

assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(3) The board shall, by regulation, establish a five-member research advisory panel, including, but not limited to, representatives from the Structural Pest Control Board, the structural pest control industry, the Department of Pesticide Regulation, and the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

(4) A charge for requests for proposals, contracts, and monitoring of contracted research shall not exceed 5 percent of the research funds available each year and shall be paid from the Structural Pest Control Research Fund.

SEC. 39. Section 38.5 of this bill incorporates amendments to Section 8674 of the Business and Professions Code proposed by both this bill and Assembly Bill 1685. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 8674 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1685, in which case Section 38 of this bill shall not become operative.

Approved _____, 2014

Governor