

ASSEMBLY BILL

No. 2529

Introduced by Assembly Member Linder

February 19, 2016

An act to amend Sections 8506.1 and 8616.9 of the Business and Professions Code, relating to structural pest control.

LEGISLATIVE COUNSEL'S DIGEST

AB 2529, as introduced, Linder. Structural pest control.

Existing law defines, licenses, and regulates structural pest control operators and creates the Structural Pest Control Board in the Department of Consumers Affairs to administrate these provisions. Existing law defines a registered company to be specified types of business organizations registered with the board to engage in the practice of structural pest control and defines operators, field representatives, and applicators as specified classes of individual licensed by the board to practice structural pest control. Existing law prescribes 3 different classifications of structural pest control licenses based on the types of pest control work permitted, which are termed branches. Existing law makes a violation of these provisions a misdemeanor, punishable by a fine of not less than \$100 and not more \$1,000, or 6 months in jail, or both.

Existing law authorizes a company registered with the board to engage in the practice of structural pest control to hire or employ individuals who are unlicensed to perform contracts covering wood destroying organisms only after an operator or field representative completes the negotiation or signing of the contract covering the job.

This bill would specify that the registered company may hire or employ unlicensed individuals to perform work on contracts or service

agreements, as defined, covering Branches 1, 2, or 3, or combination thereof.

Existing law prescribes the circumstances under which an employer may be cited if, during an inspection or investigation, an employee is found not wearing personal protective clothing required by regulation.

The bill would, instead, permit disciplinary action against the employer and the assessment of a civil fine not to exceed \$___ if the employee is found to not wear personal protective equipment required by label or regulation. The bill would, if disciplinary action is not taken against the employer, permit a civil fine to be assessed against the employee only if an employer provides evidence of specified employer practices and would also include, in this regard, the requirement that the employer has not been disciplined for a violation of the requirement for the previous 2 years.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 8506.1 of the Business and Professions
- 2 Code is amended to read:
- 3 8506.1. (a) A “registered company” is any sole proprietorship,
- 4 partnership, corporation, or other organization or any combination
- 5 thereof that is registered with the Structural Pest Control Board to
- 6 engage in the practice of structural pest control.
- 7 ~~A~~
- 8 (b) A registered company may secure structural pest control
- 9 work, submit bids, or otherwise contract for pest control work. A
- 10 registered company may employ licensed field representatives and
- 11 licensed operators to identify infestations or infections, make
- 12 inspections, and represent the company in the securing of pest
- 13 control work. A registered company may hire or employ individuals
- 14 who are not licensed under this chapter to perform work on

1 ~~contracts covering wood-destroying organisms~~ *Branch 1, 2, or 3,*
2 *or any combination of branches,* only after an operator or field
3 representative has fully completed the negotiation or signing of
4 the contract covering a given job.

5 ~~A registered company may hire and use individuals who are not~~
6 ~~licensed under this chapter on service contracts already established.~~

7 *(c) This section shall not be construed to authorize an unlicensed*
8 *individual to perform work that requires a license pursuant to this*
9 *chapter.*

10 SEC. 2. Section 8616.9 of the Business and Professions Code
11 is amended to read:

12 8616.9. *(a) If an employee is found during an inspection or*
13 *investigation not wearing personal protective equipment required*
14 *by label or regulation, the commissioner shall have the option to*
15 ~~*use discretion in citing an employer only if evidence of all of the*~~
16 ~~*following is provided:*~~ *may take disciplinary action against an*
17 *employer and may assess a civil fine against the employee. If the*
18 *commissioner does not take disciplinary action against an*
19 *employer, the commissioner may assess a civil fine against the*
20 *employee only if the employer provides evidence of all of the*
21 *following:*

22 ~~(a)~~

23 *(1) The employer has a written training program, has provided*
24 *training to the employee, and has maintained a record of training*
25 *as required by label or regulation.*

26 ~~(b)~~

27 *(2) The employer provided personal protective equipment*
28 *required by label or regulation, the equipment was available at the*
29 *site when the employee was handling the pesticide or pesticides,*
30 *and the equipment was properly maintained and in good working*
31 *order.*

32 ~~(c)~~

33 *(3) The employer is in compliance with regulations relating to*
34 *the workplace and supervision of employees.*

35 ~~(d)~~

36 *(4) The employer has implemented documented implementation*
37 *and adheres to a written company policy of disciplinary action for*
38 *employees who violate company policy or state or local laws or*
39 *regulations.*

40 ~~(e)~~

1 (5) The employer has ~~no history of repeated violations of this~~
2 ~~section.~~ *not been disciplined for a violation of the personal*
3 *protective equipment requirement for the previous two years.*

4 (b) *A civil fine assessed against an employee pursuant to this*
5 *section shall not exceed _____dollars (\$_____).*

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.