

Introduced by Senator Hueso

February 23, 2015

An act to add Section 1940.8.5 to the Civil Code, relating to rental property.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Hueso. Landlords: notice of pesticide use.

Existing law regulates the hiring of dwelling units, as defined. Existing law requires a landlord of a residential dwelling unit to provide a new tenant with certain disclosures, including, but not limited to, specified notice from a registered structural pest control company regarding the use of pesticides at the dwelling unit if a contract for periodic pest control service has been executed.

This bill would require the landlord or the landlord's authorized agent, as defined, to provide a ~~current tenant~~ *tenant, and any tenant of adjacent units*, with specified notice of the use of pesticides at the dwelling unit if the landlord or authorized agent applies any pesticide without a licensed *structural* pest control operator.

The bill would require the posing of a similar notice at least 24 hours prior to application of any pesticide to a common area without a licensed structural pest control operator, unless the pest poses an immediate threat to health and safety, in which case the notice would be required to be posted as soon as practicable, but not later than one hour after the pesticide is applied.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 ~~(a) Exposure to pests, such as arthropods and rodents, in one's~~
4 ~~home has clear health impacts. Cockroaches are known to produce~~
5 ~~allergens that trigger asthma, especially in children. A National~~
6 ~~Institutes of Health study found that cockroach allergens are the~~
7 ~~primary contributor to childhood asthma in inner-city homes.~~
8 ~~House mice can spread a type of meningitis. Bed bug bites can~~
9 ~~cause itching and become infected, while bed bug infestations have~~
10 ~~been linked to severe mental stress.~~

11 ~~(b) In many cases, pesticides that are used in homes are linked~~
12 ~~to serious health concerns. According to the United States~~
13 ~~Environmental Protection Agency, out of 94 million households~~
14 ~~in the United States, 60 million of them use pesticides every year.~~
15 ~~The number and concentrations of pesticides found in household~~
16 ~~dust exceed those found in food, soil, or air. Pesticides can remain~~
17 ~~in carpets and kitchen floors for years, creating long-term exposure~~
18 ~~to substances that can cause various health problems, including~~
19 ~~acute and persistent injury to the nervous system, injury to~~
20 ~~reproductive systems, respiratory problems such as asthma, birth~~
21 ~~defects, and cancer.~~

22 ~~(c) Children, whose bodies and brains are still developing, are~~
23 ~~more susceptible to pesticide poisoning than adults. For children,~~
24 ~~exposure to pesticides can have irreversible detrimental effects,~~
25 ~~including learning disabilities, cancer, leukemia, and asthma~~
26 ~~development. According to 2010 data from the American~~
27 ~~Association of Poison Control Centers, over 40,000 children are~~
28 ~~involved in common household pesticide-related poisoning or~~
29 ~~exposure each year in the United States.~~

30 ~~(d) Broadcast applications of liquid pesticides, such as aerosols,~~
31 ~~foggers, or sprays, often over-expose occupants to pesticides. Many~~
32 ~~residential rental property owners use those broadcast applications~~
33 ~~on a regular schedule to suppress pests, resulting in continuous~~
34 ~~exposure to tenants. Additionally, broadcast applications of liquid~~
35 ~~pesticides have been proven ineffective in managing cockroaches~~
36 ~~and other pests. Pests often return after the use of these applications~~
37 ~~because the underlying conditions go unaddressed. Evidence also~~
38 ~~suggests that in some cases, pesticide applications increase the~~

1 allergens produced by cockroaches, exacerbating their negative
2 health impact.

3 (e)

4 (a) Existing law requires licensed pest control operators to
5 provide to tenants prior to a pesticide application, advance written
6 notification that includes the pest to be targeted, the pesticide to
7 be used, the frequency of its use, and a health and safety statement.

8 (f)

9 (b) Landlords or property managers commonly authorized
10 agents may apply commercial pesticides without using the services
11 of a licensed professional. Currently, there is no notification
12 requirement for structural pest control operator, as defined in
13 Section 8506 of the Business and Professions Code. There is no
14 requirement for landlords or authorized agents to notify tenants
15 when pesticides are applied by a nonprofessional to their units or
16 common areas.

17 SEC. 2. Section 1940.8.5 is added to the Civil Code, to read:

18 1940.8.5. (a) For purposes of this section, the following terms
19 have the following meanings:

20 (1) “Authorized agent” means an individual, organization, or
21 other entity that has entered into an agreement with a landlord to
22 act on the landlord’s behalf in relation to the management of a
23 residential rental property.

24 (2) “Landlord” means an owner of residential rental property.

25 (3) “Pest” means a living organism that causes damage to
26 property or economic loss, or transmits or produces diseases.

27 (4) “Pesticide” means any substance, or mixture of substances,
28 that is intended to be used for controlling, destroying, repelling,
29 or mitigating any pest or organism.

30 (5) “Licensed structural pest control operator” has the same
31 meaning as “structural pest control operator” as set forth in
32 Section 8506 of the Business and Professions Code.

33 (b) (1) ~~(A) If a~~ A landlord or authorized agent that applies any
34 pesticide to a dwelling unit without a licensed structural pest
35 control operator, the landlord or authorized agent operator shall
36 provide, consistent with the requirements of subparagraph (B), an
37 affected paragraph (2), a tenant of that dwelling unit and a tenant
38 in each neighboring dwelling unit that could reasonably be
39 impacted by the pesticide use with written notice that contains, in

1 nontechnical language and in *a* clear and coherent manner, the
 2 following statements and information:

3 (i)

4 (A) The pest *or pests* to be controlled.

5 (ii)

6 (B) The *name and brand of the* pesticide product proposed to
 7 be used.

8 (iii)

9 (C) “State law requires that you be given the following
 10 information:

11 CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The
 12 California Department of Pesticide Regulation and the United
 13 States Environmental Protection Agency—~~allows~~ *allow* the
 14 unlicensed use of certain pesticides based on existing scientific
 15 evidence that there are no appreciable risks if proper use conditions
 16 are followed or that the risks are outweighed by the benefits. The
 17 degree of risk depends upon the degree of exposure, so exposure
 18 should be minimized.

19 If within 24 hours following application—~~you experience of a~~
 20 *pesticide, a person experiences* symptoms similar to common
 21 seasonal illness comparable to influenza, ~~you~~ *the person* should
 22 contact ~~your physician or local poison control center~~ *a physician,*
 23 *appropriate licensed health care provider, or the California Poison*
 24 *Control System* (telephone number).

25 For further information, contact any of the following: for Health
 26 Questions – the County Health Department (telephone number)
 27 and for Regulatory Information – the Department of Pesticide
 28 Regulation—~~(telephone number):~~ *(telephone number).*”

29

30 (iv)

31 (D) The *approximate date, time, and* frequency with which the
 32 pesticide will be applied.

33 (E) *The following notification:*

34 “*The approximate date, time, and frequency of this pesticide*
 35 *application is subject to change if a tenant in the unit the pesticides*
 36 *will be applied waives the 24-hour waiting period.*”

37 (B)

38 (2) The tenant ~~must~~ *shall* receive the notice at least ~~48~~ 24 hours
 39 prior to application of the pesticide in at least one of the following
 40 ways:

1 (i)

2 (A) First-class mail.

3 (ii)

4 (B) Personal delivery.

5 (3) *Upon receipt of written notification, the tenant may sign a*
6 *waiver to allow the landlord or authorized agent to apply a*
7 *pesticide at an agreed upon time within 24 hours.*

8 (c) (1) *If a landlord or authorized agent applies any pesticide*
9 *to a common area without a licensed structural pest control*
10 *operator, the landlord or authorized agent shall post written notice*
11 *in a conspicuous place in the common area in which a pesticide*
12 *is to be applied that contains, in nontechnical language and in*
13 *clear and coherent manner, the following information:*

14 (A) *The pest or pests to be controlled.*

15 (B) *The name and brand of the pesticide product proposed to*
16 *be used.*

17 (C) *“State law requires that you be given the following*
18 *information:*

19 *CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The*
20 *California Department of Pesticide Regulation and the United*
21 *States Environmental Protection Agency allow the unlicensed use*
22 *of certain pesticides based on existing scientific evidence that there*
23 *are no appreciable risks if proper use conditions are followed or*
24 *that the risks are outweighed by the benefits. The degree of risk*
25 *depends upon the degree of exposure, so exposure should be*
26 *minimized.*

27 *If within 24 hours following application of a pesticide, a person*
28 *experiences symptoms similar to common seasonal illness*
29 *comparable to influenza, the person should contact a physician,*
30 *appropriate licensed health care provider, or the California Poison*
31 *Control System (telephone number).*

32 *For further information, contact any of the following: for Health*
33 *Questions – the County Health Department (telephone number)*
34 *and for Regulatory Information – the Department of Pesticide*
35 *Regulation (telephone number).”*

36 (D) *The approximate date, time, and frequency with which the*
37 *pesticide will be applied.*

38 (2) (A) *The notice shall be posted at least 24 hours before a*
39 *pesticide application in a common area and shall remain posted*
40 *for at least 24 hours after the pesticide is applied.*

1 (B) Landlords and their authorized agents are not liable for
2 any notice removed from a common area without the knowledge
3 or consent of the landlord or authorized agent.

4 (C) If the pest poses an immediate threat to health and safety,
5 thereby making compliance with the 24-hour prior notice
6 requirements of subparagraph (A) unreasonable, a landlord or
7 authorized agent shall post the notification as soon as practicable,
8 but not later than one hour after the pesticide is applied.

9 ~~(2)~~

10 (d) Nothing in this section abrogates the responsibility of a
11 registered structural pest control company to abide by the
12 notification requirements of Section 8538 of the Business and
13 Professions Code.

14 ~~(e)~~

15 (e) Nothing in this section authorizes a landlord or authorized
16 agent to enter a tenant’s dwelling unit in violation of Section 1954.