

REFERENCE TITLE: structural pest management; regulation.

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2312

Introduced by
Representative Jones

AN ACT

CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 22, ARIZONA REVISED STATUTES, TO "STRUCTURAL PEST MANAGEMENT REGULATION"; AMENDING SECTIONS 32-2301 AND 32-2302, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 32-2301 AND 32-2302, ARIZONA REVISED STATUTES; REPEALING LAWS 2008, CHAPTER 309, SECTIONS 23, 25 AND 26; AMENDING LAWS 2008, CHAPTER 309, SECTION 24; RELATING TO THE REGULATION OF STRUCTURAL PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The chapter heading of title 32, chapter 22, Arizona Revised Statutes,
4 is changed from "STRUCTURAL PEST CONTROL COMMISSION" to "STRUCTURAL PEST
5 MANAGEMENT REGULATION".

6 Sec. 2. Section 32-2301, Arizona Revised Statutes, is amended to read:

7 32-2301. Definitions

8 In this chapter, unless the context otherwise requires:

9 1. "Acting director" means the person appointed pursuant to section
10 32-2302 to serve as the acting director of the office.

11 2. "Branch office" means any fixed place of business, other than the
12 primary office, where records are kept, mail is received, statements are
13 rendered, money is collected, requests for service or bids are received or
14 information pertaining to the business of structural pest control is given
15 and from which the use of pesticides and devices is supervised by a licensed
16 applicator or qualifying party.

17 3. "Business license" means a license that is issued pursuant to this
18 chapter to a person and that entitles that person and the person's employees
19 to engage in the business of structural pest control.

20 4. "Business of structural pest control" means engaging in, offering
21 to engage in, advertising for, soliciting or performing structural pest
22 control, including any of the following:

23 (a) Identifying infestations or making inspections for the purpose of
24 identifying or attempting to identify infestations of households or other
25 structures and the surrounding area by any of the following:

26 (i) Public health pests.

27 (ii) Aquatic pests.

28 (iii) Household pests.

29 (iv) Wood-destroying insects.

30 (v) Pests, including weeds, existing around structures, in ornamental
31 shrubs and trees, on golf courses, along rights-of-way or in lawns and
32 cemeteries.

33 (vi) Fungi.

34 (b) Making written or oral inspection reports, recommendations,
35 estimates or bids with respect to infestations.

36 (c) The application of pesticides or the making of contracts or
37 submitting of bids for the application of pesticides or the use of devices
38 for the purpose of eliminating, exterminating, controlling or preventing
39 infestations.

40 5. "De minimis violation" means a violation that, although
41 undesirable, has no direct or immediate relationship to safety, health or
42 property damage.

43 6. "Department" means, THROUGH DECEMBER 31, 2013, the Arizona
44 department of ~~administration~~ AGRICULTURE.

1 7. "Device" means any mechanical, pesticide or electrical apparatus
2 used in conjunction with, in place of or to supplement, disperse or dispense
3 pesticides.

4 8. "Direct supervision" means use of a pesticide under the
5 instructions, control and responsibility of a licensed applicator who is
6 available if needed for consultation or assistance even though the licensed
7 applicator is not physically present at the time and place the pesticide is
8 used.

9 9. "Director" means, ~~THROUGH DECEMBER 31, 2013,~~ the director of the
10 Arizona department of ~~administration~~ AGRICULTURE.

11 10. "Final grade treatment" means establishment of vertical barriers at
12 the exterior of foundation walls in stem wall construction or at the exterior
13 of grade beams in monolithic construction.

14 11. "Fungi inspection report" means a written inspection report on a
15 form approved by the office.

16 12. "Household pests" means pests, other than wood-destroying insects,
17 that invade households or other structures, including rodents, vermin and
18 insects.

19 13. "Immediate supervision" means use of a pesticide by an employee
20 acting under the instructions, control and responsibility of a licensed
21 applicator who is within the direct line of sight or within hearing distance
22 of the employee and who is available for consultation or assistance at the
23 time and place the pesticide is used.

24 14. "Initial termite corrective treatment" means the first treatment of
25 any kind performed by a licensee after a treatment made prior to or during
26 construction, excluding a treatment performed under warranty by a licensee
27 who has performed the treatment prior to or during construction.

28 15. "Inquiry" means information from the public or ~~agency~~ OFFICE staff
29 of possible violations of this chapter, or rules adopted pursuant to this
30 chapter.

31 16. "Integrated pest management" means a sustainable approach to
32 managing pests that combines biological, cultural, physical and pesticide
33 tools in a way that minimizes economic, health and environmental risks.

34 17. "License" means an approval granted by the office to act as an
35 applicator or qualifying party or to operate a business of structural pest
36 control in this state.

37 18. "Licensed applicator" means a person who is licensed by the office
38 to apply pesticides in accordance with this chapter.

39 19. "Office" means the office of pest management established by section
40 32-2302.

41 20. "Other structures" includes railroad cars, boats, docks, motor
42 vehicles or airplanes and their contents.

21. "Pest management" means the management of public health pests, aquatic pests, household pests, wood-destroying insects, fungi or other pests, including weeds, that exist near or around structures, in ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns or cemeteries and all pesticide application that could be harmful to public health or the environment. Pest management does not include pesticide applications used directly in the commercial production of crops and animals if those applications are governed by the Arizona department of agriculture pursuant to title 3, chapter 2, articles 6 and 6.1.

22. "Pesticide" means any substance or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents, predatory animals or any form of plant or animal life that is a pest and may infest or be detrimental to vegetation, humans, animals or households or be present in any environment.

23. "Prior violation" means any violation for which disciplinary action was taken within a five-year period prior to the date of the violation for which current disciplinary action is sought.

24. "Qualifying party" means an individual who is licensed by the office to ensure the supervision and training of all employees of a business licensee in the business of structural pest control.

25. "Weed" means any plant that grows where it is not wanted.

26. "Wood-destroying insect inspection report" means a written inspection report on a form approved by the acting director that is prepared in connection with the sale or refinancing of real property whether or not the report is used as part of the transaction.

27. "Wood-destroying insects" means insects that attack, damage or destroy wood or wood-derivative products.

Sec. 3. Section 32-2302, Arizona Revised Statutes, is amended to read:

32-2302. Office of pest management; acting director

A. The office of pest management is established.

B. The director of the department of ~~administration~~ AGRICULTURE shall appoint an acting director of the office who has administrative experience and experience in pest management ~~TO SERVE AT THE DIRECTOR'S PLEASURE THROUGH DECEMBER 31, 2013.~~

Sec. 4. Repeal

A. Sections 32-2301 and 32-2302, Arizona Revised Statutes, are repealed from and after December 31, 2013.

B. Laws 2008, chapter 309, sections 23, 25 and 26 are repealed.

Sec. 5. Laws 2008, chapter 309, section 24 is amended to read:

Sec. 24. Pest management advisory committee

~~A.~~ A pest management advisory committee is established for the purpose of providing general guidance to the acting director. The committee consists of the following seven members:

1 1. Three industry members, one each appointed by the governor, the
2 president of the senate and the speaker of the house of representatives. The
3 industry members shall hold current active licenses issued by the office of
4 pest management or the structural pest control commission under prior law and
5 have a minimum of five years of pest management experience. The industry
6 member appointed by the president of the senate shall be an active business
7 licensee who has five or fewer employees.

8 2. Three public members, one each appointed by the governor, the
9 president of the senate and the speaker of the house of representatives.

10 3. One member who has at least a baccalaureate degree and is an
11 entomologist, plant pathologist, toxicologist, medical doctor, doctor of
12 osteopathy or individual holding a degree in public health or occupational
13 health, who is appointed by the governor.

14 ~~B. No member of the pest management advisory committee shall be a~~
15 ~~current or former appointee to the former structural pest control commission.~~

16 Sec. 6. Task force on the regulation of structural pest
17 management; delayed repeal

18 A. The director of the Arizona department of agriculture shall appoint
19 a task force to study the regulation of structural pest management in this
20 state consisting of the following members:

21 1. Three members who are actively engaged in agricultural plant
22 production as their major sources of income.

23 2. Three members who are licensed as structural pesticide applicators
24 or qualifying parties under title 32, chapter 22, Arizona Revised Statutes.

25 3. Two members of the department of agriculture advisory council
26 appointed pursuant to section 3-104, Arizona Revised Statutes.

27 4. One member representing the Arizona department of agriculture, who
28 shall serve as chairperson of the task force.

29 B. The Arizona department of agriculture, joint legislative budget
30 committee and legislative council shall provide staff support and meeting
31 facilities to the task force.

32 C. The task force is a public body for the purposes of title 38,
33 chapter 3, article 3.1, Arizona Revised Statutes, relating to public meetings
34 and proceedings.

35 D. On or before December 15, 2012, the task force shall submit
36 findings and recommendations to the governor, the president of the senate and
37 the speaker of the house of representatives, including:

38 1. A review of all laws and regulations governing structural pest
39 management in this state.

40 2. A review of possible organizational configurations within the
41 Arizona department of agriculture for structural pest management regulation.

42 3. A review of personnel and funding issues relating to the
43 administration of structural pest management regulation within the Arizona
44 department of agriculture.

1 4. Statutory changes necessary to accomplish the future structural
2 pest management program.

3 E. This section is repealed from and after September 30, 2013.

4 Sec. 7. Interim succession

5 A. As provided by sections 32-2301 and 32-2302, Arizona Revised
6 Statutes, as amended by this act, the director of the Arizona department of
7 agriculture succeeds to the administrative supervision of the office of pest
8 management, including supervision of the pest management advisory committee
9 established by Laws 2008, chapter 309, section 24, for the period from the
10 effective date of this act through December 31, 2013.

11 B. On the effective date of this act the office of pest management
12 shall vacate its current office facilities and relocate to quarters furnished
13 by the Arizona department of agriculture. Notwithstanding section 41-791.02,
14 Arizona Revised Statutes, the office of pest management is relieved of any
15 further obligation for payment of rent to the department of administration on
16 the vacated premises.

17 C. The directors of the Arizona department of agriculture and the
18 department of administration may enter into any necessary memoranda of
19 understanding and other agreements necessary to accomplish the relocation,
20 transfer and succession of administration provided by this act.