

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1143

AN ACT

AMENDING SECTIONS 3-363 AND 32-2301, ARIZONA REVISED STATUTES; RELATING TO
GOLF COURSE PESTICIDE USE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-363, Arizona Revised Statutes, is amended to
3 read:

4 3-363. Rules

5 The director shall adopt rules to regulate pesticides ~~which shall~~ THAT
6 include provisions to:

7 1. Administer and implement this article.
8 2. Prescribe measures to control, monitor, inspect and govern
9 pesticide use.

10 3. Prohibit or restrict pesticide use.

11 4. Restrict the areas in which pesticide use may occur.

12 5. Prescribe minimum qualifications for all persons who engage in
13 pesticide use, including, as appropriate, requirements that the persons have
14 valid licenses, permits or certificates, have adequate training, including
15 continuing education requirements, and meet financial responsibility
16 standards.

17 6. Prescribe appropriate record keeping and reporting requirements
18 regarding pesticide use, except that the record keeping and reporting
19 requirements for growers and certified private applicators who apply
20 pesticides shall be equivalent to, but not more stringent than, the
21 requirements prescribed under the federal insecticide, fungicide and
22 rodenticide act (61 Stat. 163) and the food, agriculture, conservation and
23 trade act of 1990 (P.L. 101-624; 104 Stat. 3359).

24 7. Prohibit pesticide use ~~which~~ THAT is inconsistent with the
25 pesticide label as required under the federal insecticide, fungicide and
26 rodenticide act (61 Stat. 163).

27 8. Exempt from regulation under this article pesticide use that is
28 regulated in title 32, chapter 22.

29 9. Issue licenses, permits and certificates for pesticide use, as
30 appropriate, having terms of one or more years.

31 10. Charge and collect the following fees for each permit, license and
32 certification under this article:

33 (a) Not to exceed twenty dollars per year for a grower permit.

34 (b) Not to exceed one hundred dollars per year for a seller permit.

35 (c) Not to exceed one hundred dollars per year for a custom applicator
36 license.

37 (d) Not to exceed fifty dollars per year for a pilot license.

38 (e) Not to exceed fifty dollars per year for a pest control advisor
39 license.

40 (f) Not to exceed twenty-five dollars per year for a piece of
41 equipment used to apply pesticides by a custom applicator.

42 (g) Not to exceed fifty dollars per year for restricted use
43 certification.

44 (h) NOT TO EXCEED THE AMOUNT SET BY THE DIRECTOR BY RULE FOR A LICENSE
45 OR CERTIFICATE FOR PESTICIDE USE ON GOLF COURSES.

11. Establish a nonexclusive list of acts and omissions that constitute serious, nonserious and de minimis violations of this article.

12. Establish a system of administrative penalties and fines for violations of this article and any rules adopted under this article. Under this system:

(a) Violators shall be assessed a number of points for each violation, depending ~~upon~~ ON such factors as:

(i) Potential and actual consequences of the violation on public and worker health and safety and the environment.

(ii) THE wrongfulness of the conduct.

(iii) THE degree of culpability of the violator.

(iv) THE duration of the violation.

(v) Prior violations or citations.

(b) Penalties shall be assessed depending ~~upon~~ ON the number of points accrued by the violator.

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

32-2301. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

~~(i) Public health pests.~~

~~(ii) Aquatic pests.~~

~~(iii) Household pests.~~

~~(iv) Wood-destroying insects.~~

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

~~(vi) Fungi.~~

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

1 (c) The application of pesticides or the making of contracts or
2 submitting of bids for the application of pesticides or the use of devices
3 for the purpose of eliminating, exterminating, controlling or preventing
4 infestations.

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

8 6. "Department" means, through December 31, 2013, the Arizona
9 department of agriculture.

10 7. "Device" means any mechanical, pesticide or electrical apparatus
11 used in conjunction with, in place of or to supplement, disperse or dispense
12 pesticides.

13 8. "Direct supervision" means THE use of a pesticide under the
14 instructions, control and responsibility of a licensed applicator who is
15 available if needed for consultation or assistance even though the licensed
16 applicator is not physically present at the time and place the pesticide is
17 used.

18 9. "Director" means, through December 31, 2013, the director of the
19 Arizona department of agriculture.

20 10. "Final grade treatment" means THE establishment of vertical
21 barriers at the exterior of foundation walls in stem wall construction or at
22 the exterior of grade beams in monolithic construction.

23 11. "Fungi inspection report" means a written inspection report on a
24 form approved by the office.

25 12. "Household pests" means pests, other than wood-destroying insects,
26 that invade households or other structures, including rodents, vermin and
27 insects.

28 13. "Immediate supervision" means THE use of a pesticide by an employee
29 acting under the instructions, control and responsibility of a licensed
30 applicator who is within the direct line of sight or within hearing distance
31 of the employee and who is available for consultation or assistance at the
32 time and place the pesticide is used.

33 14. "Initial termite corrective treatment" means the first treatment of
34 any kind performed by a licensee after a treatment made prior to or during
35 construction, excluding a treatment performed under warranty by a licensee
36 who has performed the treatment ~~prior to~~ BEFORE or during construction.

37 15. "Inquiry" means information from the public or office staff of
38 possible violations of this chapter, or rules adopted pursuant to this
39 chapter.

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

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

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

3 19. "Office" means the office of pest management established by section
4 32-2302.

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

7 21. "Pest management":

8 (a) Means the management of ~~public~~ health-RELATED pests, aquatic
9 pests, household pests, wood-destroying ~~insects, fungi~~ ORGANISMS or other
10 pests, including weeds, that exist IN, near or around structures, in
11 ornamental shrubs and trees, ~~on golf courses~~, along rights-of-way or in lawns
12 or cemeteries and all pesticide ~~application~~ APPLICATIONS that could be
13 harmful to public health or the environment. ~~Pest management~~

14 (b) INCLUDES THE MANAGEMENT BY PERSONS FOR HIRE OF HEALTH-RELATED
15 PESTS, AQUATIC PESTS, HOUSEHOLD PESTS, WOOD-DESTROYING ORGANISMS OR OTHER
16 PESTS, INCLUDING WEEDS, THAT EXIST ON GOLF COURSES.

17 (c) Does not include pesticide applications used directly in the
18 commercial production of crops and animals ~~if those applications are governed~~
19 ~~by the Arizona department of agriculture pursuant to title 3, chapter 2,~~
20 ~~articles 6 and 6.1~~ OR USED NOT FOR HIRE ON GOLF COURSES.

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

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

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

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

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

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