

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

**CHAPTER 221**  
**SENATE BILL 1270**

AN ACT

AMENDING SECTION 3-102, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 244, SECTION 3; AMENDING SECTIONS 3-363 AND 3-374, ARIZONA REVISED STATUTES; AMENDING TITLE 3, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 3-3601, 3-3603, 3-3604, 3-3605, 3-3606, 3-3611, 3-3612, 3-3613, 3-3615, 3-3616, 3-3618, 3-3621, 3-3623, 3-3624, 3-3625 AND 3-3631, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTION 32-1121, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2303, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-606, 36-898 AND 41-1092, ARIZONA REVISED STATUTES; RELATING TO PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-102, Arizona Revised Statutes, as amended by Laws  
3 2015, chapter 244, section 3, is amended to read:

4 3-102. Department organization

5 A. The Arizona department of agriculture is established consisting of  
6 the following divisions:

7 1. The animal services division, which is responsible for milk, dairy,  
8 livestock and aquaculture regulation, the state veterinarian, meat, poultry  
9 and egg inspection and performing the administrative functions authorized or  
10 contracted pursuant to law for the Arizona beef council.

11 2. The plant services division, which is responsible for the fruit and  
12 vegetable standardization program and entomological services.

13 3. The environmental services division, which is responsible for  
14 regulating seed, feed and agricultural chemicals, including pesticides and  
15 fertilizers, and for native plant protection.

16 4. The weights and measures services division, which is responsible  
17 for the inspection, testing and licensing of commercial weighing and  
18 measuring devices.

19 5. THE PEST MANAGEMENT DIVISION, WHICH IS RESPONSIBLE FOR REGULATING  
20 PEST MANAGEMENT AND PEST MANAGEMENT SERVICES AS DEFINED IN SECTION 3-3601.

21 B. The following are established in addition to and separate from the  
22 divisions of the department:

23 1. A state agricultural laboratory.

24 2. An office of agriculture safety.

25 3. An office of inspections.

26 4. An office of commodity development and promotion.

27 C. The department shall have a central administrative service office  
28 providing:

29 1. Data processing, accounting and budgeting, records management,  
30 publications, property control and personnel services and training.

31 2. A program to cross-train appropriate personnel to enable them to  
32 perform similar functions or comparable work for different administrative  
33 units in the department.

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

35 3-363. Rules

36 The director shall adopt rules to regulate pesticides that include  
37 provisions to:

38 1. Administer and implement this article.

39 2. Prescribe measures to control, monitor, inspect and govern  
40 pesticide use.

41 3. Prohibit or restrict pesticide use.

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

43 5. Prescribe minimum qualifications for all persons who engage in  
44 pesticide use, including, as appropriate, requirements that the persons have  
45 valid licenses, permits or certificates, have adequate training, including

1 continuing education requirements, and meet financial responsibility  
2 standards.

3 6. Prescribe appropriate ~~record-keeping~~ RECORDKEEPING and reporting  
4 requirements regarding pesticide use, except that the ~~record-keeping~~  
5 RECORDKEEPING and reporting requirements for growers and certified private  
6 applicators who apply pesticides shall be equivalent to, but not more  
7 stringent than, the requirements prescribed under the federal insecticide,  
8 fungicide and rodenticide act (61 Stat. 163) and the food, agriculture,  
9 conservation and trade act of 1990 (P.L. 101-624; 104 Stat. 3359).

10 7. Prohibit pesticide use that is inconsistent with the pesticide  
11 label as required under the federal insecticide, fungicide and rodenticide  
12 act (61 Stat. 163).

13 8. Exempt from regulation under this article pesticide use that is  
14 regulated in ~~title 32,~~ chapter 22 20 OF THIS TITLE.

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

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

19 (a) Not ~~to exceed~~ MORE THAN twenty dollars per year for a grower  
20 permit.

21 (b) Not ~~to exceed~~ MORE THAN one hundred dollars per year for a seller  
22 permit.

23 (c) Not ~~to exceed~~ MORE THAN one hundred dollars per year for a custom  
24 applicator license.

25 (d) Not ~~to exceed~~ MORE THAN fifty dollars per year for a pilot  
26 license.

27 (e) Not ~~to exceed~~ MORE THAN fifty dollars per year for a pest control  
28 advisor license.

29 (f) Not ~~to exceed~~ MORE THAN twenty-five dollars per year for a piece  
30 of equipment used to apply pesticides by a custom applicator.

31 (g) Not ~~to exceed~~ MORE THAN fifty dollars per year for restricted use  
32 certification.

33 (h) Not ~~to exceed~~ MORE THAN the amount set by the director by rule for  
34 a license or certificate for pesticide use on golf courses.

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

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

40 (a) Violators shall be assessed a number of points for each violation,  
41 depending on such factors as:

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

44 (ii) The wrongfulness of the conduct.

45 (iii) The degree of culpability of the violator.

46 (iv) The duration of the violation.

1 (v) Prior violations or citations.  
2 (b) Penalties shall be assessed depending on the number of points  
3 accrued by the violator.

4 Sec. 3. Section 3-374, Arizona Revised Statutes, is amended to read:  
5 3-374. Availability of information to the public

6 A. Any records, reports or information obtained from any person under  
7 this article, including records, reports or information obtained or prepared  
8 by the department, shall be available to the public, except that the  
9 information, or a particular part of the information, shall be considered  
10 confidential on either:

11 1. A showing, satisfactory to the director, by any person that the  
12 information, or a particular part of the information, if made public, would  
13 divulge the trade secrets of the person.

14 2. A determination by the attorney general that disclosure of the  
15 information, or a particular part of the information, would be detrimental to  
16 an ongoing investigation by the director.

17 3. A determination by the attorney general that disclosure of the  
18 information or a particular part of the information would be detrimental to  
19 an ongoing criminal investigation or to an ongoing or contemplated civil  
20 enforcement action under this article in superior court.

21 B. Notwithstanding subsection A OF THIS SECTION, the following  
22 information shall be available to the public:

23 1. The name and address of any permit applicant or permittee.

24 2. Information contained in or derivable from the pesticide label or  
25 the relevant ~~material~~ safety data sheet.

26 C. Notwithstanding subsection A OF THIS SECTION, the director may  
27 disclose any records, reports or information obtained from any person under  
28 this article, including records, reports or information obtained by the  
29 department, to:

30 1. Other state employees concerned with administering this article or  
31 if relevant to any administrative or judicial proceeding under this article.

32 2. Employees of the United States environmental protection agency if  
33 such information is necessary or required to administer and implement or  
34 comply with applicable federal law.

35 Sec. 4. Title 3, Arizona Revised Statutes, is amended by adding  
36 chapter 20, to read:

37 CHAPTER 20

38 PEST MANAGEMENT DIVISION

39 Sec. 5. Transfer and renumber

40 Title 32, chapter 22, articles 1, 2, 3 and 4, Arizona Revised Statutes,  
41 are transferred and renumbered for placement in title 3, chapter 20, Arizona  
42 Revised Statutes, as added by this act, as articles 1, 2, 3 and 4,  
43 respectively. The following sections are transferred and renumbered for  
44 placement in title 3, chapter 20, article 1:

<u>Former Sections</u>	<u>New Sections</u>
45 32-2301.....	3-3601
46	



1 entitles that person and the person's employees to engage in the business of  
2 pest management.

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

6 (a) Identifying infestations or making inspections for the purpose of  
7 identifying or attempting to identify infestations.

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

10 (c) The application of pesticides or the making of contracts or  
11 submitting of bids for the application of pesticides or the use of devices  
12 for the purpose of eliminating, exterminating, controlling or preventing  
13 infestations.

14 5. "Certified applicator" means an individual who is licensed by the  
15 ~~office~~ DIVISION to provide pest management services in accordance with this  
16 chapter.

17 6. "Certified qualified applicator" means a certified applicator who  
18 is eligible to act as a qualifying party.

19 7. "Child care facility" means a facility that is regulated pursuant  
20 to title 36, chapter 7.1.

21 8. "De minimis violation" means a violation that, although  
22 undesirable, has no direct or immediate relationship to safety, health or  
23 property damage.

24 ~~9. "Department" means the Arizona department of agriculture.~~

25 ~~10.~~ 9. "Device" means any instrument or contrivance that is intended  
26 to be used for trapping, destroying, repelling or mitigating any pest or  
27 other form of plant or animal life.

28 ~~11.~~ 10. "Direct supervision" means the use of a pesticide under the  
29 instructions, control and responsibility of a certified applicator who is  
30 available if needed for consultation or assistance even though the certified  
31 applicator is not physically present at the time and place the pesticide is  
32 used.

33 ~~12. "Director" means the director of the Arizona department of~~  
34 ~~agriculture.~~

35 11. "DIVISION" MEANS THE PEST MANAGEMENT DIVISION OF THE DEPARTMENT.

36 ~~13.~~ 12. "Final grade treatment" means the establishment of a complete  
37 vertical barrier at the exterior of foundation walls in stem wall or  
38 monolithic construction.

39 ~~14.~~ 13. "Financial security" means liability insurance, a deposit of  
40 cash or certified monies, a surety bond or an irrevocable and unconditional  
41 letter of credit from ~~an Arizona or~~ A federally chartered financial  
42 institution OR A FINANCIAL INSTITUTION AS DEFINED IN SECTION 6-101.

43 ~~15.~~ 14. "Household pests" means pests, other than wood-destroying  
44 organisms, that invade households or other structures, including rodents,  
45 vermin and insects.

1       ~~16.~~ 15. "Immediate supervision" means the use of a pesticide by an  
2 individual acting under the instructions, control and responsibility of a  
3 certified applicator who is within the direct line of sight or within hearing  
4 distance of the individual and who is available for consultation or  
5 assistance at the time and place the pesticide is used.

6       ~~17.~~ 16. "Initial corrective treatment" means the first  
7 postconstruction treatment of any kind performed by a licensee, excluding a  
8 treatment performed under warranty by a licensee who has performed the  
9 pretreatment or new-construction treatment.

10       ~~18.~~ 17. "Inquiry" means an initial investigation of possible  
11 violations of this chapter or rules adopted pursuant to this chapter based on  
12 information received from the public or ~~office~~ DIVISION staff.

13       ~~19.~~ 18. "Integrated pest management" means a sustainable approach to  
14 managing pests that combines biological, cultural, physical and chemical  
15 tools in a way that minimizes economic, health and environmental risks.

16       ~~20.~~ 19. "New-construction treatment" means a treatment that protects  
17 all cellulose components of a structure from subterranean termites and that  
18 is performed after a permanent concrete slab foundation is installed or  
19 footings and supports for a raised foundation are installed, but before the  
20 structure or a final grade treatment is completed.

21       ~~21. "Office" means the office of pest management established by section~~  
22 ~~32-2303.~~

23       ~~22.~~ 20. "Other structures" includes railroad cars, boats, docks, motor  
24 vehicles or airplanes and their contents.

25       ~~23.~~ 21. "Pest management":

26       (a) Means the management of health-related pests, aquatic pests,  
27 household pests, wood-destroying organisms or other pests, including weeds,  
28 that exist in, near or around structures, in ornamental shrubs and trees,  
29 along rights-of-way or in lawns or cemeteries and all pesticide applications  
30 that could be harmful to public health or the environment.

31       (b) Includes the management by persons for hire of health-related  
32 pests, aquatic pests, household pests, wood-destroying organisms or other  
33 pests, including weeds, that exist on golf courses.

34       (c) Does not include pesticide applications used directly in the  
35 commercial production of crops and animals or used not for hire on golf  
36 courses.

37       ~~24.~~ 22. "Pest management services" means identifying infestations or  
38 making inspections for the purpose of identifying or attempting to identify  
39 infestations, making written or oral inspection reports or recommendations  
40 with respect to infestations and the application of pesticides or the use of  
41 devices not exempt by section ~~32-2304~~ 3-3603, subsection B, paragraph ~~18~~ 17  
42 for the purpose of eliminating, exterminating, controlling or preventing  
43 infestations.

44       ~~25.~~ 23. "Pesticide" means any substance or mixture of substances  
45 intended to be used for preventing, destroying, repelling or mitigating  
46 insects, fungi, bacteria, microbes, weeds, rodents, predatory animals or any

1 form of plant or animal life that is, or that the director may declare to be,  
2 a pest and that may infest or be detrimental to vegetation, humans, animals  
3 or households or be present in any environment.

4 ~~26-~~ 24. "Political subdivision" means a state agency, county, city,  
5 town, municipal corporation or school district or a special district formed  
6 pursuant to title 48.

7 ~~27-~~ 25. "Postconstruction treatment" means a treatment to control  
8 wood-destroying organisms in or around an existing structure performed after  
9 all soil disturbance associated with construction is complete and after an  
10 applicator has completed an inspection of the structure and a treatment  
11 proposal under section ~~32-2332~~ 3-3632, subsections A and B.

12 ~~28-~~ 26. "Pretreatment" means a termite treatment that protects all  
13 cellulose components of a structure from subterranean termites, that is  
14 performed before a permanent concrete slab foundation is installed or in  
15 conjunction with establishing footings and supports for a raised foundation  
16 and that establishes thorough and complete horizontal and vertical treated  
17 barriers.

18 ~~29-~~ 27. "Prior violation" means any violation for which disciplinary  
19 action was taken within a five-year period before the date of the violation  
20 for which current disciplinary action is sought.

21 ~~30-~~ 28. "Qualifying party" means a certified qualified applicator  
22 registered with the ~~office~~ DIVISION as the individual responsible for  
23 ensuring the training, equipping and supervision of all applicators of a  
24 business licensee or school district.

25 ~~31-~~ 29. "School" means any public or nonpublic institution, other than  
26 a child's home, that is established for the purpose of offering instruction  
27 to pupils in programs for preschool children with disabilities, kindergarten  
28 programs or any combination of grades one through twelve and that qualifies  
29 as a school pursuant to section 15-802.

30 ~~32-~~ 30. "Service vehicle" means a motor vehicle, including a trailer  
31 attached to the motor vehicle, that is used to transport equipment or  
32 pesticides for the business of pest management.

33 ~~33-~~ 31. "Sterilant" means a product that is designed for killing all  
34 live vegetation and preventing all vegetation growth for twelve or more  
35 months.

36 ~~34-~~ 32. "Weed" means any plant that grows where it is not wanted.

37 ~~35-~~ 33. "Wood-destroying insect inspection report" means a written  
38 inspection report on a form approved by the director that is prepared in  
39 connection with the sale or refinancing of real property whether or not the  
40 report is used as part of the transaction.

41 ~~36-~~ 34. "Wood-destroying organisms" means organisms that attack,  
42 damage or destroy wood or wood-derivative products, but does not include  
43 birds or mammals.

44 Sec. 7. Section 3-3603, Arizona Revised Statutes, as transferred and  
45 renumbered, is amended to read:

46 3-3603. Powers and duties of director

1           A. The director is responsible for administering this chapter and  
2 shall:

3           1. Adopt rules that are necessary or proper to administer and  
4 implement this chapter, including rules that may be more stringent than a  
5 corresponding federal law for:

6           (a) Administrative provisions.

7           (b) Licensure, certification and registration requirements and  
8 qualifications, including training and education requirements and financial  
9 security standards.

10          (c) Health and safety provisions.

11          (d) Duties and responsibilities.

12          (e) Recordkeeping and production of records requirements.

13          (f) Licensee inspection and treatment report requirements.

14          (g) Disciplinary action provisions.

15          (h) Equipment provisions.

16          (i) Advertising requirements.

17          (j) The use, storage and application of pesticides and devices used in  
18 pest management.

19          2. Notify the business licensee, applicator and qualifying party in  
20 writing of any inquiry into possible violations by the business licensee,  
21 applicator or qualifying party by the close of business on the tenth business  
22 day after the day on which the director initiated the inquiry if the director  
23 anticipates an enforcement action. If in the course of the investigation the  
24 ~~office~~ DIVISION identifies any alleged violations by a different business  
25 licensee, applicator or qualified party, the director shall notify the  
26 additional alleged violator by the close of business on the tenth business  
27 day after the day on which the director initiated the new inquiry.

28          3. Develop and either conduct or contract to conduct certified  
29 applicator and certified qualified applicator tests at locations throughout  
30 this state. If the director contracts for these tests, the contracts may  
31 provide for specific examination fees or a reasonable range of fees  
32 determined by the director to be paid directly to the contractor by the  
33 applicant. The director shall make all efforts to contract with private  
34 parties to electronically administer the tests.

35          4. Maintain a computer system for the benefit and protection of the  
36 public that includes the following information on pretreatments,  
37 new-construction treatments, final grade treatments, initial corrective  
38 treatments and wood-destroying insect inspection reports:

39          (a) The name of the individual who performed the work.

40          (b) The address or location of the work or project.

41          (c) The name of the pest management company.

42          (d) The name of the qualifying party.

43          (e) The applicator license numbers.

44          (f) The nature and date of the work performed.

45          (g) Any other information that is required by rule.

1           5. Establish offices the director deems necessary to carry out the  
2 purposes of this chapter.

3           6. Subject to title 41, chapter 4, article 4, employ personnel the  
4 director deems necessary to carry out the purposes of this chapter and  
5 designate their duties.

6           7. Oversee the approval, content and method of delivery of continuing  
7 education courses.

8           8. Deny a license to any person who has had a license revoked for a  
9 period of five years from the time of revocation.

10          9. License applicators and qualified applicators and license  
11 businesses in accordance with this chapter and rules adopted pursuant to this  
12 chapter.

13          10. Register qualifying parties, branch supervisors and branch offices  
14 in accordance with this chapter and rules adopted pursuant to this chapter.

15          11. Require the payment of a penalty for any late license renewal.

16          12. Refuse to issue a business license in a name that is not registered  
17 with the secretary of state or filed with the Arizona corporation commission.

18          13. Adopt a wood-destroying insect inspection report form for use by  
19 business licensees.

20          14. RECEIVE MONIES AUTHORIZED UNDER THIS CHAPTER FOR DEPOSIT, PURSUANT  
21 TO SECTIONS 35-146 AND 35-147, IN THE APPROPRIATE FUNDS.

22           B. The director may:

23           1. Compel attendance of witnesses, administer oaths or affirmations  
24 and take testimony concerning all matters coming within the director's  
25 jurisdiction.

26           2. Issue subpoenas for the taking of depositions, the production of  
27 documents and things and the entry on land for inspection and measuring,  
28 surveying, photographing, testing or sampling the property or any designated  
29 object or operation on the property relevant to an inquiry or complaint.

30           3. Contract and enter into interagency and intergovernmental  
31 agreements with any private party or public agency.

32           4. With at least twenty-four hours' notice, unless there may be an  
33 immediate risk to public health and safety, require a business licensee,  
34 qualifying party or applicator to produce specific records. On a showing of  
35 good cause by the business licensee, qualifying party or applicator, the  
36 director may excuse failure to timely comply.

37           5. Deny or revoke a license based on the information in the  
38 application.

39           6. Issue advisory notices for de minimis violations.

40           7. Investigate alleged violations of this chapter, rules adopted  
41 pursuant to this chapter, consent agreements, orders and any condition  
42 imposed in connection with a license.

43           8. Require the public to provide notices regarding alleged violations  
44 in writing.

45           9. Pursuant to section 41-1092.11, summarily suspend a license issued  
46 under this chapter to protect the health, safety and welfare of the public.

1           10. Issue a corrective work order requiring a business licensee or  
2 applicator to remedy deficiencies in treatment or to comply with this chapter  
3 or any rules adopted pursuant to this chapter before or after a formal  
4 hearing.

5           11. ~~Do at least one of the following in relation to unlicensed pest~~  
6 ~~management business operations, unless the operations do not require~~  
7 ~~licensure~~ ON RECEIPT OF A COMPLAINT OR ON INITIATION OF A COMPLAINT BY THE  
8 DIVISION, INVESTIGATE ANY ALLEGED VIOLATION OF UNLICENSED ACTIVITY PURSUANT  
9 TO THIS CHAPTER. IF THE DIRECTOR DETERMINES THAT AN UNLICENSED PERSON IS  
10 PERFORMING AN ACT THAT IS REQUIRED TO BE PERFORMED BY A PERSON LICENSED  
11 PURSUANT TO THIS CHAPTER, THE DIRECTOR SHALL TAKE ONE OR MORE OF THE  
12 FOLLOWING ENFORCEMENT ACTIONS:

13           (a) Issue a cease and desist order requiring the ~~business~~ PERSON to  
14 immediately cease operations.

15           (b) Impose on the ~~owner of the business~~ PERSON a civil penalty of not  
16 more than one thousand dollars for the first occurrence and not more than two  
17 thousand dollars for the second ~~or subsequent~~ occurrence.

18           (c) FILE AN ACTION TO ENJOIN THE PERSON FROM ENGAGING IN THE  
19 UNLICENSED ACTIVITY.

20           (d) REQUEST THAT THE COUNTY ATTORNEY OR ATTORNEY GENERAL FILE CHARGES  
21 AGAINST THE PERSON.

22           12. Refuse to issue a business license in a name that is likely to be  
23 misleading or to imply any distorted representation about the business.

24           13. Register a certified applicator who is a representative of a  
25 business licensee as a temporary qualifying party if the qualifying party  
26 becomes disassociated with the business licensee.

27           14. Provide and conduct classes to train individuals in preparation for  
28 certified applicator and certified qualified applicator tests. The director  
29 may assess a fee for each class. The director may contract with a commercial  
30 enterprise or an accredited institution to conduct the class.

31           15. Provide and conduct continuing education classes quarterly. The  
32 director may assess a fee for each credit hour. The director may contract  
33 with a commercial enterprise or an accredited institution to conduct the  
34 class under the supervision of ~~office~~ DIVISION staff.

35           ~~16. Apply to the appropriate court, through the attorney general or~~  
36 ~~county attorney, for an order enjoining any act or practice that constitutes~~  
37 ~~a violation of this chapter or any rule adopted pursuant to this chapter.~~

38           ~~17.~~ 16. Enter into consent agreements and issue consent orders.

39           ~~18.~~ 17. Designate by rule devices that are exempt from the licensure,  
40 certification and registration requirements of this chapter.

41           ~~19.~~ 18. Charge a person for providing copies of rules, forms or  
42 policies proposed for adoption and for educational materials.

43           ~~20.~~ 19. Require a business licensee or qualifying party to register  
44 with the ~~office~~ DIVISION or TO otherwise identify all of the licensed or  
45 unlicensed applicators of the business or supervised by the qualifying party.

1       ~~21.~~ 20. Require a business licensee to produce records for the purpose  
2 of verifying that an individual is an applicator of the business licensee.

3       ~~22.~~ 21. Charge a handling fee in addition to the transaction amount  
4 for any transaction that could have been completed electronically and was  
5 not.

6       ~~23.~~ 22. Deny or refuse to renew a license of a person who owes unpaid  
7 fees or civil penalties to the ~~office~~ DIVISION.

8       C. The director or any duly authorized agents may enter any private or  
9 public property, including a service vehicle, on which pesticides are located  
10 or are reasonably believed to be located to be used for purposes related to  
11 pest management or any office of a business engaged in pest management. The  
12 owner, managing agent or occupant of the property or office shall permit  
13 entry for the purpose of inspecting and investigating conditions relating to  
14 the use, storage, application and disposal of pesticides, including worker  
15 safety materials and records pertaining to pest management. If a person  
16 refuses to admit the director or the authorized agent in accordance with this  
17 subsection, the director may obtain a warrant from a court of competent  
18 jurisdiction. If a licensed or certified person refuses to admit the  
19 director or an authorized agent in accordance with this subsection during  
20 regular business hours, the director may impose disciplinary action on the  
21 person.

22       D. The director or any duly authorized agents may monitor compliance  
23 by a person with this chapter and rules adopted pursuant to this chapter  
24 while the person is providing pest management services.

25       Sec. 8. Section 3-3604, Arizona Revised Statutes, as transferred and  
26 renumbered, is amended to read:

27       3-3604. Pest management trust fund

28       A. The pest management TRUST fund is established for the exclusive  
29 purpose of implementing, continuing and supporting the ~~office~~ DIVISION and  
30 its objectives as established by this chapter.

31       ~~B. Pursuant to sections 35-146 and 35-147, the director shall deposit~~  
32 ~~ten per cent of all fees in the state general fund and deposit the remaining~~  
33 ~~ninety per cent in the pest management fund. All monies collected from civil~~  
34 ~~penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the~~  
35 ~~state general fund.~~

36       ~~C. Monies deposited in the pest management fund are exempt from the~~  
37 ~~provisions of section 35-190 relating to lapsing of appropriations.~~

38       B. THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE  
39 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
40 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
41 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
42 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM  
43 THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND  
44 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND  
45 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE  
46 TRUST FUND.

1 C. THE BENEFICIARIES OF THE TRUST ARE THE DIVISION PROGRAMS  
2 ESTABLISHED BY THIS CHAPTER. MONIES IN THE TRUST FUND SHALL BE DISBURSED AS  
3 APPROVED BY THE DIRECTOR EXCLUSIVELY FOR THE PURPOSES PRESCRIBED IN THIS  
4 CHAPTER.

5 D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE  
6 AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

7 E. IF THE DIVISION IS TERMINATED, ANY MONIES IN THE TRUST FUND SHALL  
8 BE EXPENDED TO MEET EXISTING LEGAL OBLIGATIONS OF THE DIVISION. THE DIRECTOR  
9 SHALL EXPEND ANY REMAINING MONIES ON ANY PROGRAM CONSISTENT WITH THIS  
10 CHAPTER.

11 Sec. 9. Section 3-3605, Arizona Revised Statutes, as transferred and  
12 renumbered, is amended to read:

13 3-3605. Pest management division council; members; duties

14 A. The director shall establish by rule a pest management ~~advisory~~  
15 ~~committee~~ DIVISION COUNCIL to assist and make recommendations to the director  
16 regarding the administration and implementation of this chapter. The  
17 director shall appoint five members to the ~~committee~~ COUNCIL, including one  
18 public member.

19 B. THE PEST MANAGEMENT DIVISION COUNCIL SHALL:

20 1. REVIEW PEST MANAGEMENT POLICY IN THIS STATE AS ESTABLISHED BY LAW  
21 AND ADMINISTERED BY THE DIVISION.

22 2. ASSIST THE DIRECTOR IN FORMULATING ADMINISTRATIVE RULES FOR THE  
23 DIVISION, INCLUDING REVIEWING, ADVISING AND MAKING RECOMMENDATIONS TO THE  
24 DIRECTOR ON PROPOSED RULES BEFORE THE RULES ARE ADOPTED AND RECOMMENDING AND  
25 INITIATING THE RULEMAKING PROCESS FOR RULES RELATING TO THIS CHAPTER.

26 3. ASSIST THE DIRECTOR IN DEVELOPING PROPOSED BUDGETS FOR THE  
27 DIVISION.

28 4. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

29 C. IF THE DIRECTOR DETERMINES THAT THE RULEMAKING RECOMMENDATIONS OF  
30 THE PEST MANAGEMENT DIVISION COUNCIL ARE PRACTICABLE AND IN THE BEST  
31 INTERESTS OF THE PEST MANAGEMENT INDUSTRY AND THE PUBLIC, THE DIRECTOR SHALL  
32 ACCEPT THE RULEMAKING RECOMMENDATIONS. IF THE DIRECTOR REJECTS THE  
33 RULEMAKING RECOMMENDATIONS OF THE PEST MANAGEMENT DIVISION COUNCIL, THE  
34 DIRECTOR SHALL PROVIDE A WRITTEN EXPLANATION OF THE REASONS FOR THE REJECTION  
35 TO THE DIVISION COUNCIL NOT MORE THAN FIFTEEN DAYS AFTER THE DIRECTOR'S  
36 DECISION TO REJECT THE RECOMMENDATIONS.

37 D. THE DIRECTOR SHALL INCLUDE THE COMMENTS OF THE PEST MANAGEMENT  
38 DIVISION COUNCIL IN THE OFFICIAL RECORD WHEN ADOPTING RULES OR BUDGETS FOR  
39 THE DIVISION.

40 Sec. 10. Section 3-3606, Arizona Revised Statutes, as transferred and  
41 renumbered, is amended to read:

42 3-3606. Pesticide applications at schools and child care  
43 facilities; advance notification; exemptions

44 A. Only a certified applicator may apply pesticides at a school or  
45 child care facility.

1 B. A business licensee or certified applicator shall notify a school  
2 or a child care facility at least seventy-two hours in advance of any  
3 pesticide application in order to permit the school to comply with section  
4 15-152 and the child care facility to comply with section 36-898. The  
5 ~~seventy two hour~~ SEVENTY-TWO-HOUR advance notice shall include:

6 1. The SCHEDULED date and time the application is to occur. ~~The~~  
7 ~~seventy two hour advance notice shall also include the brand name,~~  
8 ~~concentration, rate of application, pesticide label and material safety data~~  
9 ~~sheet and any use restrictions required by the pesticide label.~~

10 ~~C. Immediately before application of a pesticide, a business licensee~~  
11 ~~or certified applicator shall provide the school or child care facility with~~  
12 ~~a written preapplication notification containing the following information:~~

13 ~~1. The brand name, concentration and rate of application and any use~~  
14 ~~restrictions required by the label of the herbicide or specific pesticide.~~

15 ~~2. The area or areas where the pesticide is to be applied.~~

16 ~~3. The date and time the application is to occur.~~

17 ~~4. The pesticide label and the material safety data sheet.~~

18 ~~D. The pesticide label and material safety data sheet may be used in~~  
19 ~~place of any information required pursuant to subsections B and C of this~~  
20 ~~section if the information is already contained on the pesticide label or~~  
21 ~~material safety data sheet.~~

22 2. THE LOCATION AND AREA OF THE APPLICATION AND THE BRAND NAME OF THE  
23 PESTICIDE OR PESTICIDES TO BE APPLIED.

24 3. THE NAME, ADDRESS, PHONE NUMBER AND CONTACT PERSON OF THE BUSINESS  
25 LICENSEE OR CERTIFIED APPLICATOR.

26 4. A STATEMENT THAT FURTHER INFORMATION, THE PRODUCT LABEL OR THE  
27 SAFETY DATA SHEET IS AVAILABLE BY CONTACTING THE BUSINESS LICENSEE OR  
28 CERTIFIED APPLICATOR.

29 ~~E. C.~~ C. The following pesticide applications are exempt from the  
30 notification requirement prescribed by ~~subsections~~ SUBSECTION B ~~and C~~ of this  
31 section:

32 1. Nonresidual pesticide applications performed or contracted by  
33 public health agencies for adult vector control, provided that oral  
34 notification is attempted at least seventy-two hours before the application,  
35 when possible, to the school office or child care facility office with a  
36 statement of the pest problem, treatment procedure, area to be treated and  
37 approximate time of the application.

38 2. Emergency applications of a pesticide that has a toxicity category  
39 of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to  
40 control harmful pests that pose an immediate threat to the public health.  
41 Under the circumstances described in this paragraph or paragraph 1 of this  
42 subsection, the business licensee or certified applicator shall do all of the  
43 following:

44 (a) Notify the school office or child care facility office before the  
45 application with a statement of the pest problem, treatment procedure, area  
46 to be treated and approximate time of application.

1 (b) Immediately after the application has been completed, notify the  
2 school office or the child care facility office of the name of the pesticide  
3 applied, the formulation, the strength and dosage and the date and time of  
4 application and provide the pesticide label.

5 (c) Post the treated area immediately after the application. The  
6 posting shall be at least eight and one-half inches by eleven inches and  
7 shall include the name of the pesticide, the registration number issued by  
8 the United States environmental protection agency, the date and time of  
9 application and the name and telephone number of the business licensee and  
10 certified applicator. A copy of the posting shall also be placed at the main  
11 entrance to the school or child care facility. The posting and the copy of  
12 the posting shall remain in place for at least forty-eight hours after the  
13 application.

14 3. Disinfectants or swimming pool chemicals.

15 4. Block, gel or paste-type bait that is a toxicity category III or IV  
16 formulation of insecticide pursuant to 40 Code of Federal Regulations section  
17 156.62 and that is either of the following:

18 (a) Secured in an enclosed, tamper-resistant bait station and placed  
19 in an area that is inaccessible to children.

20 (b) Applied to a crack or crevice that is inaccessible to children.

21 5. Block-type bait that is a toxicity level III or IV formulation of  
22 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and  
23 that is secured in an enclosed, tamper-resistant bait station placed in an  
24 area that is inaccessible to children.

25 6. Personal repellants.

26 7. Nonrestricted use sanitizers and deodorizers.

27 Sec. 11. Section 3-3611, Arizona Revised Statutes, as transferred and  
28 renumbered, is amended to read:

29 3-3611. License and registration exemptions

30 A. The provisions of this chapter requiring licensure and registration  
31 do not apply to:

32 1. Persons applying nonrestricted use pesticides on residential  
33 property that they own and occupy or that they own and that is not occupied.

34 2. Authorized representatives of any educational institution engaged  
35 in research in the study of pest management or a state agency engaged in  
36 research or the study of pest management.

37 3. Persons using a nonrestricted, ready-to-use disinfectant, sanitizer  
38 or deodorizer.

39 4. A utility and the utility's employees if pest management services  
40 are needed for an employee's health and safety in order for the employee to  
41 continue performing work tasks.

42 5. Persons using an over-the-counter antimicrobial to treat a swimming  
43 pool.

44 6. Persons using a device that is exempt pursuant to section ~~32-2304~~  
45 3-3603, subsection B, paragraph ~~18~~ 17.

1           7. Persons who are exempt pursuant to section ~~32-2311.01~~ 3-3612 or  
2 ~~32-2311.02~~ 3-3613.

3           B. An individual is not required to have a separate business license  
4 to engage in the business of pest management on behalf of a business licensee  
5 or as an employee of a political subdivision.

6           C. The director by rule may exempt from sections ~~32-2313~~ 3-3615 and  
7 ~~32-2314~~ 3-3616 a certified applicator who performs inspections but does not  
8 make recommendations, estimates, bids or contracts for treatment or use  
9 pesticides or devices for pest management and may prescribe alternative  
10 requirements and conditions.

11           Sec. 12. Section 3-3612, Arizona Revised Statutes, as transferred and  
12 renumbered, is amended to read:

13           3-3612. Political subdivisions; exemptions; definition

14           A. A political subdivision that uses pesticides to conduct pest  
15 management on property that is owned, leased or managed by the political  
16 subdivision, including easements:

17           1. Is not required to be licensed under section ~~32-2313~~ 3-3615.

18           2. Must provide the department with the name and telephone number of  
19 the primary contact person or persons responsible for responding to  
20 department inquiries or concerns regarding compliance with this chapter. The  
21 primary contact person or persons at a minimum shall demonstrate to the  
22 department:

23           (a) Where the records are retained.

24           (b) Where the personal protective equipment is located.

25           (c) Where the pesticides are stored.

26           (d) That all applicators are properly certified.

27           B. A school district is exempt from subsection A, paragraph 2 of this  
28 section, but shall have a qualifying party who is registered in the  
29 appropriate categories.

30           C. An employee of a political subdivision who provides pest management  
31 services must be a certified applicator except as provided by subsection D of  
32 this section.

33           D. The following individuals are exempt from the certification  
34 requirements of this chapter:

35           1. An employee of a political subdivision who applied pesticides for  
36 the political subdivision no more than ninety calendar days before  
37 certification. This exemption does not apply to an employee who applies  
38 pesticides at a school or child care facility.

39           2. An employee of a political subdivision or designated agent while  
40 performing emergency response or rescue services.

41           3. A volunteer of a political subdivision while applying herbicides  
42 for the purpose of the eradication and control of noxious weeds as defined in  
43 section 3-201 and who is under the immediate supervision of a certified  
44 applicator. This exemption does not apply to a volunteer of a political  
45 subdivision who:

46           (a) Applies herbicides at a school or child care facility.

1 (b) Uses herbicides that are labeled with the words "restricted use"  
2 or "danger".

3 (c) Uses sterilants.

4 (d) Uses application equipment that holds more than four gallons of  
5 total mixed liquid herbicide.

6 (e) Has not completed an herbicide application training program  
7 conducted by the political subdivision and approved by the ~~office~~ DIVISION.

8 E. For the purposes of this section, "volunteer" means a person who  
9 works without compensation other than reimbursement of actual expenses  
10 incurred or disbursement of meals or other incidental benefits.

11 Sec. 13. Section 3-3613, Arizona Revised Statutes, as transferred and  
12 renumbered, is amended to read:

13 3-3613 Landscapers; records; civil penalties

14 A. The provisions of this chapter requiring licensure,~~—~~ and  
15 registration do not apply to a person who conducts lawn, garden, shrub or  
16 tree maintenance and who applies herbicides for the purpose of weed  
17 management, except as otherwise provided in this section.

18 B. Notwithstanding subsection A of this section, the licensure,~~—~~  
19 ~~certification~~ and registration requirements of this chapter apply to a person  
20 who:

21 1. Uses herbicides that are labeled with the words "restricted use" or  
22 "danger".

23 2. Uses sterilants or preemergent herbicides.

24 3. Offers weed management as the person's primary service or  
25 advertises weed management services.

26 4. Uses application equipment that collectively holds more than ~~four~~  
27 FIVE gallons of total mixed liquid herbicide at an address or project on the  
28 same day.

29 5. Uses more than twenty-five pounds of nonliquid herbicide at an  
30 address or project on the same day.

31 6. Uses or is part of a crew of two or more herbicide applicators at  
32 an address or project on the same day.

33 7. Uses an herbicide at a school or child care facility.

34 8. Uses an herbicide at an address or project without performing lawn,  
35 garden, shrub or tree maintenance at that address or project on the same day.

36 C. A person who is exempt from licensure,~~—certification~~ and  
37 registration pursuant to this section shall provide treatment records to each  
38 customer on application of herbicides for the purpose of weed management and  
39 shall retain records containing the same information provided to customers  
40 for at least six months after the date of the treatment. For the purposes of  
41 this subsection, treatment records must include the following:

42 1. The address of the location of the herbicide application.

43 2. The date of the herbicide application.

44 3. The trade name or common name of the herbicide applied.

45 4. The amount of the herbicide applied.

46 5. The name of the individual who performed the treatment.

1 D. If a person is exempt from licensure, ~~certification~~ and  
2 registration pursuant to subsection A of this section but does not comply  
3 with subsection C of this section, the director shall:

4 1. ~~OR~~ FOR a first violation, issue a written notice of correction that  
5 contains a warning and a copy of this section.

6 2. ~~OR~~ FOR a second violation, impose a civil penalty of at least fifty  
7 dollars.

8 3. ~~OR~~ FOR a third or any subsequent violation, impose a civil penalty  
9 of not more than one thousand dollars.

10 E. If a person is not exempt from licensure, ~~certification~~ and  
11 registration but uses an herbicide for the purpose of weed management, the  
12 director may:

13 1. Issue a cease and desist order and an administrative warning.

14 2. ~~OR~~ FOR a first violation, impose a civil penalty of not more than  
15 one thousand dollars.

16 3. ~~OR~~ FOR a second or any subsequent violation, impose a civil penalty  
17 of not more than two thousand dollars.

18 Sec. 14. Section 3-3615, Arizona Revised Statutes, as transferred and  
19 renumbered, is amended to read:

20 3-3615. Business license; financial security

21 A. A person who engages in the business of pest management shall  
22 obtain a valid business license from the ~~office~~ DIVISION. A person who is  
23 not exempt under this chapter and who advertises for, solicits or claims to  
24 be willing to engage in the business of pest management is presumed to be  
25 engaging in the business of pest management.

26 B. An application for an original or a renewal business license shall:

27 1. Be in a form and include the information prescribed by the  
28 director.

29 2. Be accompanied by the prescribed fee.

30 3. Include the following proof of financial security:

31 (a) Either a deposit of money, liability insurance, self-insured  
32 retention, a surety bond or a certified check protecting persons who may  
33 suffer bodily injury or property damage as a result of the operations of the  
34 applicant. The director shall not accept a bond or a liability insurance  
35 policy unless it is issued by an insurer that holds a valid certificate of  
36 authority or that is permitted to transact surplus lines insurance in this  
37 state. The amount of the deposit, insurance, self-insured retention or bond  
38 shall be at least five hundred thousand dollars and shall be maintained at  
39 not less than that amount at all times during the licensing period. The  
40 license of a business licensee whose financial security falls below the  
41 minimum five hundred thousand dollars shall be suspended by the director and  
42 shall remain suspended until the security meets the minimum financial  
43 security requirement. The financial security need only cover those  
44 particular operations in which the licensee is engaged at any time. If the  
45 financial security is in the form of liability insurance or a surety bond,  
46 the licensee shall furnish the director with a certificate of coverage that

1 indicates the coverages and endorsements required by this subsection on a  
2 form prescribed by the director.

3 (b) Either of the following if the business licensee performs termite  
4 treatments:

5 (i) Proof of a surety bond in the amount of one hundred thousand  
6 dollars per business license for actual damages, including reasonable costs  
7 of collection suffered by persons as a result of termite damage due to  
8 negligent treatment.

9 (ii) Proof of a liability insurance policy rider in the amount of one  
10 hundred thousand dollars per business license that covers termite damage due  
11 to negligent treatment.

12 (c) If the business licensee provides wood-destroying insect  
13 inspection reports, proof of a surety bond or a liability insurance policy  
14 rider in the amount of one hundred thousand dollars per business license for  
15 actual damages plus reasonable costs of collection suffered by persons as a  
16 result of errors and omissions contained in the reports.

17 C. If an insurance policy provides for a deductible, the deductible  
18 amount shall not exceed one ~~per cent~~ PERCENT of the total financial security  
19 for each occurrence. If the deductible amount is in excess of one ~~per cent~~  
20 PERCENT of the total financial security for each occurrence, the business  
21 licensee shall provide other security as provided in this section or other  
22 evidence of financial security for the excess deductible amount.

23 D. If the financial security is in the form of liability insurance, a  
24 licensee shall maintain a coverage endorsement for pesticides and herbicides,  
25 fumigation, care, custody and control, rights-of-way, wood-destroying insect  
26 inspection report errors and omissions and pollution transit for its  
27 applicable license categories.

28 E. If the proof of financial security on file with the ~~office~~ DIVISION  
29 expires, the business license is automatically suspended until a current  
30 certificate of insurance or proof of financial responsibility is furnished to  
31 the director.

32 Sec. 15. Section 3-3616, Arizona Revised Statutes, as transferred and  
33 renumbered, is amended to read:

34 3-3616. Qualifying party; registration

35 A. A person shall not engage in the business of pest management in any  
36 category without a qualifying party registered in that category.

37 B. To be a qualifying party, an individual must:

38 1. Be a certified qualified applicator.

39 2. Register as a qualifying party with the ~~office~~ DIVISION using a  
40 form and including the information prescribed by the director.

41 Sec. 16. Section 3-3618, Arizona Revised Statutes, as transferred and  
42 renumbered, is amended to read:

43 3-3618. Fees

44 A. The director shall establish by rule and collect application and  
45 renewal fees for the following:

46 1. A business license.

- 1           2. A branch office registration.
- 2           3. A branch supervisor registration.
- 3           4. A qualifying party registration.
- 4           5. A temporary qualifying party registration.
- 5           6. A temporary qualifying party renewal registration.
- 6           7. AN applicator certification.
- 7           8. A qualified applicator certification.
- 8           9. An applicator registration.
- 9           10. A duplicate license.
- 10          B. The director may charge and collect late fees in addition to the
- 11 fees listed in subsection A of this section.
- 12          C. The director may establish tiered fees for business licenses.
- 13          D. The director may charge and collect additional fees for GOODS AND
- 14 services that the director considers to be appropriate to carry out the
- 15 intent and purpose of this chapter. These additional fees shall not exceed
- 16 the costs of PROVIDING THE GOODS OR rendering the services.
- 17          Sec. 17. Section 3-3621, Arizona Revised Statutes, as transferred and
- 18 renumbered, is amended to read:
- 19           3-3621. Disciplinary action; grounds; procedure
- 20          A. If the director finds that a person has violated this chapter, a
- 21 rule adopted pursuant to this chapter or a written order of the director, the
- 22 director may issue a notice of violation and a cease and desist order to the
- 23 person and, after an opportunity for a hearing, take any of the following
- 24 disciplinary actions, in combination or alternatively:
- 25           1. Revoke a license or registration.
- 26           2. Suspend a license or registration.
- 27           3. Refuse to renew a license or registration.
- 28           4. Impose probation requirements that require a person to comply with
- 29 one or more specific provisions of this chapter or rules adopted pursuant to
- 30 this chapter and that require reporting by or monitoring of the person.
- 31           5. Impose a civil penalty in an amount of not more than one thousand
- 32 dollars for each violation except for grounds prescribed in section ~~32-2325~~
- 33 3-3624, subsection B, paragraphs 8 and 9.
- 34           6. Require a qualifying party to report to the director the qualifying
- 35 party's role in the management of a business license.
- 36           7. Require an individual to take supplemental continuing education
- 37 within a time period set by the director.
- 38          B. Instead of taking disciplinary action for a violation pursuant to
- 39 subsection A of this section, the director may issue an administrative
- 40 warning.
- 41          C. Except as provided in section 41-1092.11, the director may take
- 42 disciplinary action against a business licensee pursuant to subsection A of
- 43 this section only if any of the following applies:
- 44           1. The business licensee has committed a prior violation of the same
- 45 type, including any violation by any applicator of the business licensee.

1           2. The business licensee failed to follow a written order of the  
2 director directing it to correct a deficiency or problem within the time  
3 specified.

4           3. The business licensee has knowingly assumed operations for a  
5 business licensee whose license has been revoked and during the first three  
6 years after revocation allows the former licensee to play an active role in  
7 company policy, decisions, sales or supervision of applicators.

8           4. The business licensee is convicted of a felony.

9           5. The business licensee is determined by the director to have  
10 committed a violation in connection with a pretreatment, new-construction  
11 treatment or final grade treatment.

12           6. The business licensee uses applicators to provide pest management  
13 services that are not registered pursuant to the requirements established  
14 under section ~~32-2304~~ 3-3603, subsection B, paragraph ~~20~~ 19.

15           7. The business licensee fails to provide written notice immediately  
16 following a pest management treatment in or around residential structures of  
17 four or fewer units to the person requesting the treatment or to the person's  
18 designated agent. The notice shall include the specific pesticide by trade  
19 name used in the treatment.

20           8. The business licensee performing pest management treatments on an  
21 ongoing basis to locations other than residential structures of four or fewer  
22 units fails to provide written notice to the person who requested the  
23 treatments or the person's designated agent. Notice shall be given before  
24 the first application of the pesticide and when new or additional pesticides  
25 are used or immediately after each treatment.

26           9. If the treatments are performed in the interior of residential  
27 units, the licensee fails to leave a notice in the interior of each treated  
28 unit immediately after each treatment. The notice shall include the  
29 pesticide by trade name and any other information as required by the  
30 pesticide label or local ordinance.

31           10. A statement of precaution does not accompany each notification of  
32 treatment required in paragraphs 7, 8 and 9 of this subsection. Each  
33 statement of precaution shall be printed conspicuously, in not less than  
34 eight-point type, and shall include the words:

35                 Warning--pesticides can be harmful. Keep children and  
36                 pets away from pesticide applications until dry, dissipated or  
37                 aerated. For more information contact [business license name  
38                 and business license number] at [telephone number].

39           11. The business licensee fails within thirty calendar days after  
40 completion of a pretreatment, a new-construction treatment, a final grade  
41 treatment, an initial corrective treatment project or a wood-destroying  
42 insect inspection report to file with the ~~office~~ DIVISION, in a form approved  
43 by the director, the termite action report form and prescribed fee.

44           12. The business licensee, within twelve months after completion of a  
45 termite pretreatment or new-construction treatment, fails either to file a  
46 supplemental termite action report in a form provided by the director that

1 indicates the completion of the final grade treatment or to report in writing  
2 why the treatment has not been completed and when it will be completed.

3 13. The business licensee's applicator applies a pesticide that causes  
4 harm to the public, the environment or a nontarget animal.

5 14. The business licensee fails within thirty calendar days to pay  
6 civil penalties imposed under this chapter or rules adopted pursuant to this  
7 chapter.

8 15. The business licensee engages in the business of pest management  
9 while the business license is suspended.

10 D. The director shall commence an inquiry only within five years after  
11 the date of the alleged act or omission.

12 E. The director may issue an advisory notice stating de minimis  
13 violations of statutes or rules that carry no penalty, unless the person  
14 subject to this chapter wilfully and repeatedly violates the statute or rule.  
15 For wilful and repeated violations, the director may take disciplinary action  
16 against the person for a violation.

17 F. The license of a person who does not renew the license and who has  
18 been advised in writing that an investigation or complaint is pending at the  
19 time the license is due to expire or terminate does not expire or terminate  
20 until the investigation or complaint is resolved. The license is suspended  
21 on the date it would otherwise expire or terminate until the person renews  
22 the license or the investigation or complaint is resolved.

23 G. The director may summarily suspend a person's license while there  
24 is a pending criminal charge against the person for a felony or a misdemeanor  
25 involving moral turpitude.

26 Sec. 18. Section 3-3623, Arizona Revised Statutes, as transferred and  
27 renumbered, is amended to read:

28 3-3623. Civil penalties; suspension

29 A. The ~~office~~ DIRECTOR may suspend a license, certification or  
30 registration without a hearing if the licensee fails within thirty calendar  
31 days to pay civil penalties imposed under this chapter or rules adopted  
32 pursuant to this chapter.

33 B. A licensee whose license is suspended under subsection A of this  
34 section must apply to the director for reinstatement.

35 C. A license, certification or registration suspended under subsection  
36 A of this section shall be revoked without a hearing after one year of  
37 suspension. Revocations under this subsection are not subject to section  
38 ~~32-2304~~ 3-3603, subsection A, paragraph ~~8-~~ 7.

39 D. The ~~office~~ DIVISION shall not renew a license, certification or  
40 registration or broaden a certification until the person suspended under  
41 subsection A of this section is reinstated.

42 Sec. 19. Section 3-3624, Arizona Revised Statutes, as transferred and  
43 renumbered, is amended to read:

44 3-3624. Unlawful acts; violations; classification

45 A. A person shall not:

- 1           1. Engage in the business of pest management, COMMENCE WORK ON A  
2 CONTRACT OR SIGN, ISSUE OR DELIVER ANY DOCUMENT EXPRESSING AN OPINION OR  
3 STATEMENT RELATING TO PEST MANAGEMENT without a business license issued  
4 pursuant to this chapter, unless the person is otherwise exempt pursuant to  
5 this chapter.
- 6           2. Engage in the business of pest management in any category without a  
7 qualifying party who is registered in that category.
- 8           3. Operate a branch office without a registered branch supervisor  
9 under whose direct supervision pesticide applications are made out of that  
10 office.
- 11          4. Apply pesticides in any category other than wood-destroying  
12 organism management or fumigation unless the person is an applicator  
13 certified in that category or applies the pesticides under the direct  
14 supervision of an applicator certified in that category.
- 15          5. Apply pesticides in the category of wood-destroying organism  
16 management, aquatic pest management or fumigation unless the person is an  
17 applicator certified in that category or the person applies the pesticides  
18 under the immediate supervision of an applicator certified in that category.
- 19          6. Make recommendations regarding pest management unless the person is  
20 a certified applicator.
- 21          7. Deny ~~to an authorized inspector~~ THE DIRECTOR OR ANY AGENT OF THE  
22 DIRECTOR the right to be present on a jobsite in connection with a  
23 contemporaneous pest management treatment, including for the purpose of  
24 taking pesticide samples and soil samples.
- 25          B. The following nonexclusive acts are grounds for disciplinary  
26 action:
  - 27           1. Violating this chapter, rules adopted pursuant to this chapter or a  
28 written order of the director.
  - 29           2. Making false or fraudulent records or reports.
  - 30           3. Misrepresenting a material fact in obtaining a license.
  - 31           4. Applying pesticides in a manner that is inconsistent with the label  
32 and labeling of the pesticide or that may cause harm to the public, the  
33 environment or nontarget animals.
  - 34           5. Misusing a pesticide if the misuse is due to the failure of the  
35 person to properly train or supervise. Proper training includes training to  
36 read and understand the label and labeling and to understand the proper use  
37 of application equipment. Proper supervision includes oversight of  
38 applicators to ensure general compliance with the label and labeling and all  
39 applicable laws.
  - 40           6. Authorizing, directing or abetting the publication, advertisement,  
41 distribution or circulation of any false statement or material  
42 misrepresentation concerning a business of pest management.
  - 43           7. Engaging in the business of pest management or providing pest  
44 management services under a suspended license.

1           8. Being convicted of a felony, a misdemeanor arising from or in  
2 connection with a license issued pursuant to this chapter after issuance of  
3 the license or a misdemeanor involving moral turpitude.

4           9. Having had a license, or the equivalent, to apply pesticides or  
5 engage in the business of pest management suspended or revoked in another  
6 jurisdiction for cause.

7           10. Making a fraudulent statement or an intentional material  
8 misrepresentation in connection with a wood treatment proposal or a  
9 wood-destroying insect inspection report.

10          11. Having three or more de minimis violations of this chapter or rules  
11 adopted under this chapter.

12          12. Failing to provide the director with a current certificate of  
13 insurance or proof of financial responsibility.

14          13. Failing to provide a proper final grade treatment within twelve  
15 months after the original pretreatment or new-construction treatment.

16          14. Providing immediate supervision of more uncertified applicators at  
17 a time than is authorized by rule.

18          15. Failing to make and maintain true and accurate records of  
19 treatments performed or wood-destroying insect inspection reports, including  
20 those performed under warranty or guarantee, for at least three years after  
21 the date of treatment or inspection.

22          16. Failing to make treatment records available on request of the  
23 property owner or the property owner's authorized agent within three business  
24 days.

25          17. Failing to permit the director or any duly authorized agent to  
26 promptly inspect records pertaining to pest management located at an office  
27 of a business licensee when an employee or the owner of the business licensee  
28 is present at the business office and has access to the records.

29          18. Failing to timely produce specific records requested pursuant to  
30 section ~~32-2304~~ 3-3603, subsection B, paragraph 4.

31          19. Violating the terms of a consent agreement or written order of the  
32 director.

33           C. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 1 OF THIS SECTION  
34 WITH RECKLESS DISREGARD FOR THE HEALTH AND SAFETY OF OTHER PERSONS OR  
35 PROPERTY IS GUILTY OF A CLASS 6 FELONY.

36          Sec. 20. Section 3-3625, Arizona Revised Statutes, as transferred and  
37 renumbered, is amended to read:

38           3-3625. Business license; principals; definition

39           A. The ~~office~~ DIRECTOR shall deny an application for a new business  
40 license or a renewal of an existing business license if a principal of the  
41 applicant was also a principal of another business that currently owes past  
42 due termite action registration form fees, owes civil penalties to the ~~office~~  
43 DIVISION or has had its business license suspended or revoked within the last  
44 five years and was a principal at the time the fees became due or the acts  
45 resulting in the disciplinary action occurred.

1 B. For the purposes of this section, "principal" means a person who  
2 owns at least a ten ~~per cent~~ PERCENT interest in a business. Principal  
3 includes an owner that is itself a business as well as owners of a principal.

4 Sec. 21. Section 3-3631, Arizona Revised Statutes, as transferred and  
5 renumbered, is amended to read:

6 3-3631. Termite action report form; exemption

7 A. Within thirty calendar days after completion of a pretreatment, a  
8 new-construction treatment, a final grade treatment, an initial corrective  
9 treatment or a wood-destroying insect inspection report, a business licensee  
10 or certified applicator shall file with the ~~office~~ DIVISION in a form  
11 approved by the director a termite action report form and the prescribed fee.  
12 A termite action report is required for termite action only and does not  
13 include all wood-destroying organisms.

14 B. The termite action report form shall include:

- 15 1. The address or location of the work or project.
- 16 2. The type and date of the work.
- 17 3. The name of the business licensee.
- 18 4. Any other information required by rule.

19 C. The director may:

- 20 1. Adjust the fee upward or downward to a level that is calculated to  
21 produce sufficient revenue to carry out the functions of wood-destroying  
22 organism regulation.
- 23 2. Establish tiered fees according to the means of submission to  
24 encourage electronic submission of the termite action report form.
- 25 3. Assess a penalty of not more than one hundred dollars per form for  
26 failing to submit the required form or fee, or both, within thirty calendar  
27 days.

28 D. If the business licensee who performs an initial corrective  
29 treatment performed the pretreatment or new-construction treatment at the  
30 same site and filed a termite action report form with the ~~office~~ DIVISION  
31 documenting the pretreatment or new-construction treatment, the business  
32 licensee is exempt from this section with respect to the initial corrective  
33 treatment.

34 Sec. 22. Section 32-1121, Arizona Revised Statutes, is amended to  
35 read:

36 32-1121. Persons not required to be licensed; penalties;  
37 applicability

38 A. This chapter shall not be construed to apply to:

- 39 1. An authorized representative of the United States government, this  
40 state or any county, incorporated city or town, reclamation district,  
41 irrigation district or other municipality or political subdivision of this  
42 state.
- 43 2. Trustees of an express trust that is not formed for the purpose of  
44 conducting business as a contractor or officers of a court, if they are  
45 acting within the terms of their trust or office.

1           3. Public utilities operating under regulation of the corporation  
2 commission or construction, repair or operation incidental to discovering or  
3 producing petroleum or gas, or the drilling, testing, abandoning or other  
4 operation of a petroleum or gas well, if performed by an owner or lessee.

5           4. Any materialman, manufacturer or retailer who furnishes finished  
6 products, materials or articles of merchandise and who does not install or  
7 attach such items or installs or attaches such items if the total value of  
8 the sales contract or transaction involving such items and the cost of the  
9 installation or attachment of such items to a structure does not exceed one  
10 thousand dollars, including labor, materials and all other items, but  
11 excluding any electrical fixture or appliance that was designed by the  
12 manufacturer, that is unaltered, unchanged or unmodified by any person, that  
13 can be plugged into a common household electrical outlet utilizing a ~~two~~  
14 ~~pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and  
15 that does not use any other form of energy, including natural gas, propane or  
16 other petroleum or gaseous fuel, to operate or is attached by a nail, screw  
17 or other fastening device to the frame or foundation of any residential  
18 structure. The materialman, manufacturer or retailer shall inform the  
19 purchaser that the installation may also be performed by a licensed  
20 contractor whose name and address the purchaser may request.

21           5. Owners of property who improve such property or who build or  
22 improve structures or appurtenances on such property and who do the work  
23 themselves, with their own employees or with duly licensed contractors, if  
24 the structure, group of structures or appurtenances, including the  
25 improvements thereto, are intended for occupancy solely by the owner and are  
26 not intended for occupancy by members of the public as the owner's employees  
27 or business visitors and the structures or appurtenances are not intended for  
28 sale or for rent. In all actions brought under this chapter, except an  
29 action against an owner-occupant as defined in section 33-1002, proof of the  
30 sale or rent or the offering for sale or rent of any such structure by the  
31 owner-builder within one year after completion or issuance of a certificate  
32 of occupancy is prima facie evidence that such project was undertaken for the  
33 purpose of sale or rent. For the purposes of this paragraph, "sale" or  
34 "rent" includes any arrangement by which the owner receives compensation in  
35 money, provisions, chattels or labor from the occupancy or the transfer of  
36 the property or the structures on the property.

37           6. Owners of property who are acting as developers and who build  
38 structures or appurtenances to structures on their property for the purpose  
39 of sale or rent and who contract for such a project with a general contractor  
40 licensed pursuant to this chapter and owners of property who are acting as  
41 developers, who improve structures or appurtenances to structures on their  
42 property for the purpose of sale or rent and who contract for such a project  
43 with a general contractor or specialty contractors licensed pursuant to this  
44 chapter. To qualify for the exemption under this paragraph, the licensed  
45 contractors' names and license numbers shall be included in all sales  
46 documents.

1           7. Architects or engineers who are engaging in their professional  
2 practice as defined in chapter 1 of this title and who hire or offer to hire  
3 the services of a contractor for preconstruction activities relating to  
4 investigation and discovery, including:

5           (a) Subsurface utility location and designation services.

6           (b) Potholing.

7           (c) Drilling for any of the following:

8           (i) Soil samples.

9           (ii) Rock samples.

10          (iii) Pavement samples.

11          (d) Locating existing features of a building or structure, including  
12 existing electrical, mechanical, plumbing and structural members.

13           8. A person licensed, certified or registered pursuant to **TITLE 3**,  
14 chapter ~~22 of this title~~ **20** or a person working under the direct supervision  
15 of a person certified or qualified pursuant to **TITLE 3**, chapter ~~22 of this~~  
16 ~~title~~ **20** to the extent the person is engaged in pest management.

17           9. The sale or installation of finished products, materials or  
18 articles of merchandise that are not fabricated into and do not become a  
19 permanent fixed part of the structure. This exemption does not apply if a  
20 local building permit is required, if the total price of the finished  
21 product, material or article of merchandise, including labor but excluding  
22 any electrical fixture or appliance that was designed by the manufacturer,  
23 that is unaltered, unchanged or unmodified by any person, that can be plugged  
24 into a common household electrical outlet utilizing a ~~two-pronged~~ **TWO-PRONGED**  
25 or ~~three-pronged~~ **THREE-PRONGED** electrical connector and that does not use any  
26 other form of energy, including natural gas, propane or other petroleum or  
27 gaseous fuel, to operate or is attached by a nail, screw or other fastening  
28 device to the frame or foundation of any residential structure, is more than  
29 one thousand dollars or if the removal of the finished product, material or  
30 article of merchandise causes damage to the structure or renders the  
31 structure unfit for its intended use.

32           10. Employees of the owners of condominiums, townhouses, cooperative  
33 units or apartment complexes of four units or less or the owners' management  
34 agent or employees of the management agent repairing or maintaining  
35 structures owned by them.

36           11. Any person who engages in the activities regulated by this chapter,  
37 as an employee of an exempt property owner or as an employee with wages as  
38 the person's sole compensation.

39           12. A surety company or companies that are authorized to transact  
40 business in this state and that undertake to complete a contract on which  
41 they issued a performance or completion bond, provided all construction work  
42 is performed by duly licensed contractors.

43           13. Insurance companies that are authorized to transact business in  
44 this state and that undertake to perform repairs resulting from casualty  
45 losses pursuant to the provisions of a policy, provided all construction work  
46 is performed by duly licensed contractors.

1           14. Any person other than a licensed contractor engaging in any work or  
2 operation on one undertaking or project by one or more contracts, for which  
3 the aggregate contract price, including labor, materials and all other items,  
4 but excluding any electrical fixture or appliance that was designed by the  
5 manufacturer, that is unaltered, unchanged or unmodified by any person, that  
6 can be plugged into a common household electrical outlet utilizing a ~~two~~  
7 ~~pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and  
8 that does not use any other form of energy, including natural gas, propane or  
9 other petroleum or gaseous fuel, to operate or is attached by a nail, screw  
10 or other fastening device to the frame or foundation of any residential  
11 structure, is less than one thousand dollars. The work or operations that  
12 are exempt under this paragraph shall be of a casual or minor nature. This  
13 exemption does not apply:

14           (a) In any case in which the performance of the work requires a local  
15 building permit.

16           (b) In any case in which the work or construction is only a part of a  
17 larger or major operation, whether undertaken by the same or a different  
18 contractor, or in which a division of the operation is made in contracts of  
19 amounts less than one thousand dollars, excluding any electrical fixture or  
20 appliance that was designed by the manufacturer, that is unaltered, unchanged  
21 or unmodified by any person, that can be plugged into a common household  
22 electrical outlet utilizing a ~~two-pronged~~ TWO-PRONGED or ~~three-pronged~~  
23 THREE-PRONGED electrical connector and that does not use any other form of  
24 energy, including natural gas, propane or other petroleum or gaseous fuel, to  
25 operate or is attached by a nail, screw or other fastening device to the  
26 frame or foundation of any residential structure, for the purpose of evasion  
27 of this chapter or otherwise.

28           (c) To a person who utilizes any form of advertising to the public in  
29 which the person's unlicensed status is not disclosed by including the words  
30 "not a licensed contractor" in the advertisement.

31           15. A person who is licensed, certified or registered pursuant to  
32 title 41, chapter 16 and who is not otherwise required to be licensed under  
33 this chapter or an employee of such person.

34           16. A person who functions as a gardener by performing lawn, garden,  
35 shrub and tree maintenance.

36           17. Alarm agents as defined in section 32-101.

37           B. A person who is licensed to perform work in a particular trade  
38 pursuant to this chapter shall not be required to obtain and maintain a  
39 separate license for mechanical or structural service work performed within  
40 the scope of such trade by such person.

41           C. Any person who does not have an exemption from licensure pursuant  
42 to subsection A, paragraph 14, subdivision (c) of this section is subject to  
43 prosecution for a violation of section 44-1522. The attorney general may  
44 investigate the act or practice and take appropriate action pursuant to title  
45 44, chapter 10, article 7.

1 D. The exemptions from licensure pursuant to subsection A, paragraphs  
2 4, 9 and 14 of this section do not apply to either of the following:

3 1. All fire safety and mechanical, electrical and plumbing work that  
4 is done in connection with fire safety installation and fire safety  
5 maintenance and repair. For the purposes of this paragraph, "fire safety  
6 installation" means hardwired or interconnected smoke alarms and fire  
7 sprinklers and does not include an individual device that is attached by a  
8 nail, screw or other fastening device to the frame or foundation of any  
9 residential unit. For the purposes of this paragraph, fire safety  
10 maintenance and repair does not include routine work that is conducted by an  
11 employee of an apartment or condominium complex AND that is incidental to the  
12 fire safety equipment.

13 2. All work that is done, including the installation, maintenance and  
14 repair of devices, appliances or equipment, that involves the connecting to  
15 any supply of natural gas, propane or other petroleum or gaseous fuel.  
16 Nothing in this paragraph impacts the effect of section 36-1624.01.

17 Sec. 23. Heading repeal

18 The chapter heading of title 32, chapter 22, Arizona Revised Statutes,  
19 is repealed.

20 Sec. 24. Repeal

21 Section 32-2303, Arizona Revised Statutes, is repealed.

22 Sec. 25. Section 36-606, Arizona Revised Statutes, is amended to read:  
23 36-606. Pesticide illness; medical education; reports

24 A. The director of the department of health services shall develop and  
25 implement, in cooperation with rural health clinics, county health  
26 departments, state and local medical associations, poison control centers and  
27 other appropriate health care professionals, a system for reporting and  
28 preventing pesticide provoked illnesses. This program shall include:

29 1. Medical education programs to alert health care professionals to  
30 the symptoms, diagnosis, treatment and reporting of pesticide provoked  
31 illnesses.

32 2. A statewide reporting network, which shall:

33 (a) Require health care professionals and poison control centers to  
34 file incident reports of an illness that they reasonably believe, based on  
35 professional judgment, to be caused by or related to documented exposure to a  
36 pesticide.

37 (b) Catalogue and retrieve data regarding pesticide poisoning for use  
38 in worker and public health education programs to prevent pesticide  
39 poisoning.

40 B. The health care professional or poison control center required to  
41 file an incident report required pursuant to subsection A, paragraph 2,  
42 subdivision (a) OF THIS SECTION shall specifically indicate in the incident  
43 report the reason for believing that the illness is caused by or related to  
44 documented exposure to a pesticide and shall specify if the illness is caused  
45 by the documented exposure or is related to the documented exposure. All  
46 incident reports shall be filed with the director. The director shall

1 provide to the Arizona department of agriculture all records, reports and  
2 information of all illnesses resulting from documented exposure to  
3 agriculture pesticides and ~~shall provide to the office of pest management all~~  
4 ~~records, reports and information of all illnesses resulting from documented~~  
5 ~~exposure to~~ structural pesticides.

6 Sec. 26. Section 36-898, Arizona Revised Statutes, is amended to read:  
7 36-898. Licensees; pesticide application; notice; definitions

8 A. The director, in consultation with licensees, personnel of  
9 licensees, parents, guardians, administrators, members of the public, a  
10 qualifying party and at least one health professional, shall develop and  
11 adopt a policy to provide parents, guardians, children and personnel with at  
12 least forty-eight hours' notice before pesticides are applied on licensee  
13 property.

14 B. The policy shall include at least the following:

15 1. Procedures for providing the notification, including:

16 (a) Procedures for written notification to parents, guardians or an  
17 individual authorized by a parent or guardian during a regular child care  
18 session.

19 (b) Procedures for requiring the licensee to post signs to identify  
20 pesticide application areas.

21 2. Procedures for requiring any contracted pest control applicator to  
22 provide detailed and sufficient information to licensees for the purpose of  
23 completing the posting materials.

24 C. The policy shall include exemptions for the following pesticide  
25 applications:

26 1. Nonresidual pesticide applications performed or contracted by  
27 public health agencies for adult vector control.

28 2. Emergency pesticide applications of a pesticide that has a toxicity  
29 category of III or IV pursuant to 40 Code of Federal Regulations section  
30 156.62 to control harmful pests that pose an immediate threat to the public  
31 health.

32 3. Disinfectants or swimming pool chemicals.

33 4. Block, gel or paste-type bait that is a toxicity category III or IV  
34 formulation of insecticide pursuant to 40 Code of Federal Regulations section  
35 156.62 and that is either of the following:

36 (a) Secured in an enclosed, tamper-resistant bait station and placed  
37 in an area that is inaccessible to children.

38 (b) Applied to a crack or crevice inaccessible to children.

39 5. Block-type bait that is a toxicity level III or IV formulation of  
40 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and  
41 that is secured in an enclosed, tamper-resistant bait station placed in an  
42 area inaccessible to children.

43 6. Personal repellants.

44 7. Any pesticide exempt from regulation by the United States  
45 environmental protection agency pursuant to the federal insecticide,  
46 fungicide and rodenticide act (7 United States Code section 136w).

1 D. Each licensee shall maintain written records of pesticide  
2 application notifications for a period of at least three years after the  
3 application. The licensee may delegate to the pest control applicator the  
4 duty to fill out and post notices required by department policy. A licensee  
5 is not required to maintain records of pesticides that are exempt pursuant to  
6 subsection C of this section.

7 E. For the purposes of this section:

8 1. "Child care" has the same meaning prescribed in section 36-881.

9 2. "Department" means the department of health services.

10 3. "Licensee" means a person who is regulated pursuant to this  
11 chapter.

12 4. "Pesticides" includes pesticides regulated under the federal  
13 insecticide, fungicide and rodenticide act (P.L. 100-532; 102 Stat. 2654; 7  
14 United States Code section 136) except for nonrestricted use disinfectants,  
15 sanitizers or deodorizers regulated by the federal insecticide, fungicide and  
16 rodenticide act.

17 5. "Qualifying party" has the same meaning prescribed in section  
18 ~~32-2301~~ 3-3601.

19 Sec. 27. Section 41-1092, Arizona Revised Statutes, is amended to  
20 read:

21 41-1092. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Administrative law judge" means an individual or an agency head,  
24 board or commission that sits as an administrative law judge, that conducts  
25 administrative hearings in a contested case or an appealable agency action  
26 and that makes decisions regarding the contested case or appealable agency  
27 action.

28 2. "Administrative law judge decision" means the findings of fact,  
29 conclusions of law and recommendations or decisions issued by an  
30 administrative law judge.

31 3. "Appealable agency action" means an action that determines the  
32 legal rights, duties or privileges of a party and that is not a contested  
33 case. Appealable agency actions do not include interim orders by  
34 self-supporting regulatory boards, rules, orders, standards or statements of  
35 policy of general application issued by an administrative agency to  
36 implement, interpret or make specific the legislation enforced or  
37 administered by it or clarifications of interpretation, nor does it mean or  
38 include rules concerning the internal management of the agency that do not  
39 affect private rights or interests. For the purposes of this paragraph,  
40 administrative hearing does not include a public hearing held for the purpose  
41 of receiving public comment on a proposed agency action.

42 4. "Director" means the director of the office of administrative  
43 hearings.

44 5. "Final administrative decision" means a decision by an agency that  
45 is subject to judicial review pursuant to title 12, chapter 7, article 6.

46 6. "Office" means the office of administrative hearings.

- 1           7. "Self-supporting regulatory board" means any one of the following:  
2           (a) The Arizona state board of accountancy.  
3           (b) The state board of appraisal.  
4           (c) The board of barbers.  
5           (d) The board of behavioral health examiners.  
6           (e) The Arizona state boxing and mixed martial arts commission.  
7           (f) The state board of chiropractic examiners.  
8           (g) The board of cosmetology.  
9           (h) The state board of dental examiners.  
10          (i) The state board of funeral directors and embalmers.  
11          (j) The Arizona game and fish commission.  
12          (k) The board of homeopathic and integrated medicine examiners.  
13          (l) The Arizona medical board.  
14          (m) The naturopathic physicians medical board.  
15          (n) The state board of nursing.  
16          (o) The board of examiners of nursing care institution administrators  
17          and adult care home managers.  
18          (p) The board of occupational therapy examiners.  
19          (q) The state board of dispensing opticians.  
20          (r) The state board of optometry.  
21          (s) The Arizona board of osteopathic examiners in medicine and  
22          surgery.  
23          (t) The Arizona peace officer standards and training board.  
24          (u) The Arizona state board of pharmacy.  
25          (v) The board of physical therapy.  
26          (w) The state board of podiatry examiners.  
27          (x) The state board for private postsecondary education.  
28          (y) The state board of psychologist examiners.  
29          (z) The board of respiratory care examiners.  
30          ~~(aa) The office of pest management.~~  
31          ~~(bb)~~ (aa) The state board of technical registration.  
32          ~~(cc)~~ (bb) The Arizona state veterinary medical examining board.  
33          ~~(dd)~~ (cc) The acupuncture board of examiners.  
34          ~~(ee)~~ (dd) The Arizona regulatory board of physician assistants.  
35          ~~(ff)~~ (ee) The board of athletic training.  
36          ~~(gg)~~ (ff) The board of massage therapy.

37          Sec. 28. Exemption from rulemaking  
38          For the purposes of this act, the Arizona department of agriculture is  
39          exempt from the rulemaking requirements of title 41, chapter 6, Arizona  
40          Revised Statutes, for one year after the effective date of this act.

41          Sec. 29. Effective date; retroactivity  
42          This act is effective and applies retroactively to from and after June  
43          30, 2016.

S.B. 1270

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.