

REFERENCE TITLE: office of pest management; reports

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2596

Introduced by
Representative Ugenti

AN ACT

AMENDING SECTIONS 32-2321, 32-2331 AND 32-2332, ARIZONA REVISED STATUTES;
RELATING TO TERMITE ACTION REPORT FORMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-2321, Arizona Revised Statutes, is amended to
3 read:
4 32-2321. Disciplinary action; grounds; procedure
5 A. If the director finds that a person has violated this chapter, a
6 rule adopted pursuant to this chapter or a written order of the director, the
7 director may issue a notice of violation and a cease and desist order to the
8 person and, after an opportunity for a hearing, take any of the following
9 disciplinary actions, in combination or alternatively:
10 1. Revoke a license or registration.
11 2. Suspend a license or registration.
12 3. Refuse to renew a license or registration.
13 4. Impose probation requirements that require a person to comply with
14 one or more specific provisions of this chapter or rules adopted pursuant to
15 this chapter and that require reporting by or monitoring of the person.
16 5. Impose a civil penalty in an amount of not more than one thousand
17 dollars for each violation except for grounds prescribed in section 32-2325,
18 subsection B, paragraphs 8 and 9.
19 6. Require a qualifying party to report to the director the qualifying
20 party's role in the management of a business license.
21 7. Require an individual to take supplemental continuing education
22 within a time period set by the director.
23 B. Instead of taking disciplinary action for a violation pursuant to
24 subsection A of this section, the director may issue an administrative
25 warning.
26 C. Except as provided in section 41-1092.11, the director may take
27 disciplinary action against a business licensee pursuant to subsection A of
28 this section only if any of the following applies:
29 1. The business licensee has committed a prior violation of the same
30 type, including any violation by any applicator of the business licensee.
31 2. The business licensee failed to follow a written order of the
32 director directing it to correct a deficiency or problem within the time
33 specified.
34 3. The business licensee has knowingly assumed operations for a
35 business licensee whose license has been revoked and during the first three
36 years after revocation allows the former licensee to play an active role in
37 company policy, decisions, sales or supervision of applicators.
38 4. The business licensee is convicted of a felony.
39 5. The business licensee is determined by the director to have
40 committed a violation in connection with a pretreatment, new-construction
41 treatment or final grade treatment.
42 6. The business licensee uses applicators to provide pest management
43 services that are not registered pursuant to the requirements established
44 under section 32-2304, subsection B, paragraph 20.

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

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

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

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

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

25 11. ~~The~~ A business licensee WHO IS AUTHORIZED TO COMPLETE A TERMITE
26 ACTION REPORT fails within thirty calendar days after completion of a
27 pretreatment, a new-construction treatment, a final grade treatment, an
28 initial corrective treatment project or a wood-destroying insect inspection
29 report to file with the office, in a form approved by the director, the
30 termite action report form and prescribed fee.

31 12. ~~The~~ A business licensee WHO IS AUTHORIZED TO COMPLETE A TERMITE
32 ACTION REPORT, within twelve months after completion of a termite
33 pretreatment or new-construction treatment, fails either to file a
34 supplemental termite action report in a form provided by the director that
35 indicates the completion of the final grade treatment or to report in writing
36 why the treatment has not been completed and when it will be completed.

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

39 14. The business licensee fails within thirty calendar days to pay
40 civil penalties imposed under this chapter or rules adopted pursuant to this
41 chapter.

42 15. The business licensee engages in the business of pest management
43 while the business license is suspended.

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

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

6 F. The license of a person who does not renew the license and who has
7 been advised in writing that an investigation or complaint is pending at the
8 time the license is due to expire or terminate does not expire or terminate
9 until the investigation or complaint is resolved. The license is suspended
10 on the date it would otherwise expire or terminate until the person renews
11 the license or the investigation or complaint is resolved.

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

15 Sec. 2. Section 32-2331, Arizona Revised Statutes, is amended to read:
16 32-2331. Termite action report form; exemption

17 A. A PERSON WHO REQUESTS A PRETREATMENT, A NEW-CONSTRUCTION TREATMENT,
18 A FINAL GRADE TREATMENT, AN INITIAL CORRECTIVE TREATMENT OR A WOOD-DESTROYING
19 INSECT INSPECTION REPORT MAY CHOOSE TO HAVE THE BUSINESS LICENSEE OR
20 CERTIFIED APPLICATOR COMPLETE A TERMITE ACTION REPORT FORM. IF A TERMITE
21 ACTION REPORT FORM IS COMPLETED, within thirty calendar days after completion
22 of ~~a~~ THE pretreatment, ~~a~~ THE new-construction treatment, ~~a~~ THE final grade
23 treatment, ~~an~~ THE initial corrective treatment or ~~a~~ THE wood-destroying
24 insect inspection report, a business licensee or certified applicator shall
25 file with the office in a form approved by the director a termite action
26 report form and the prescribed fee. THE OFFICE MAY MAKE A FILED TERMITE
27 ACTION REPORT FORM AVAILABLE ON ITS WEBSITE ONLY WITH THE CONSENT OF THE
28 PERSON WHO REQUESTED THE TREATMENT.

29 B. The termite action report form shall include:

- 30 1. The address or location of the work or project.
- 31 2. The type and date of the work.
- 32 3. The name of the business licensee.
- 33 4. Any other information required by rule.

34 C. The director may:

35 1. Adjust the fee upward or downward to a level that is calculated to
36 produce sufficient revenue to carry out the functions of wood-destroying
37 organism regulation.

38 2. Establish tiered fees according to the means of submission to
39 encourage electronic submission of the termite action report form.

40 3. Assess a penalty of not more than one hundred dollars per form for
41 failing to submit the required form or fee, or both, within thirty calendar
42 days.

43 D. If the business licensee who performs an initial corrective
44 treatment performed the pretreatment or new-construction treatment at the
45 same site and ~~filed~~ WAS AUTHORIZED TO FILE a termite action report form with

1 the office documenting the pretreatment or new-construction treatment, the
2 business licensee is exempt from this section with respect to the initial
3 corrective treatment.

4 Sec. 3. Section 32-2332, Arizona Revised Statutes, is amended to read:
5 32-2332. Wood-destroying organisms; treatment proposal; form;
6 retention; exception

7 A. A business licensee shall not commence work on a contract or sign,
8 issue or deliver any documents expressing an opinion or making a statement
9 relating to the presence or absence of wood-destroying organisms in a
10 structure until an inspection is made.

11 B. Only an applicator certified in the category of wood-destroying
12 organism management shall prepare a treatment proposal on a form approved by
13 the director. The applicator shall deliver a copy of the treatment proposal
14 to the person requesting the proposal or treatment, or the person's
15 designated agent, before beginning treatment. The treatment proposal shall
16 include the following information:

- 17 1. The address of the property to be treated.
- 18 2. A statement describing that the work is preventative or corrective.
- 19 3. A statement describing the evidence of infestation or damage.
- 20 4. A diagrammatic description showing the nature and location of
21 evidence of infestation or damage, or both, if applicable.
- 22 5. A statement describing the treatment or repair method, including
23 the name of the pesticide or device to be used and a diagrammatic description
24 showing where the treatment or repair will be rendered.
- 25 6. The price for the work.
- 26 7. The terms for the service agreement provided by the business
27 licensee.

28 **8. A STATEMENT THAT THE PERSON REQUESTING THE PROPOSAL OR TREATMENT**
29 **HAS THE OPTION OF HAVING A TERMITE ACTION REPORT FORM COMPLETED BY THE**
30 **BUSINESS LICENSEE OR CERTIFIED APPLICATOR.**

31 ~~8-~~ 9. The signature and license number of the person who made the
32 inspection of the structure to be treated.

33 C. A certified applicator shall also give to the person requesting a
34 proposal or treatment a written recommendation that verifies a particular
35 problem and, in addition to the certified applicator's recommendation for
36 treatment, shall advise the person of alternative treatments and methods,
37 including integrated pest management methods, to alleviate the problem.

38 D. A treatment proposal shall not be in the same form or be construed
39 as a wood-destroying insect inspection report. A treatment proposal that
40 does not identify infestation by wood-destroying organisms is not a binding
41 statement as to the presence or absence of wood-destroying organisms.

42 E. A treatment proposal shall be prepared by a certified applicator
43 who has received at least five hours of instruction from an in-house
44 education program of the business licensee on the subject of wood-destroying
45 organisms inspections. An examination on the instruction is not required.

1 The business licensee shall keep a record of completion of the training and
2 shall make the record available on the director's request. The instruction
3 requirement does not apply to certified qualified applicators.

4 F. If a business licensee performs a treatment pursuant to a treatment
5 proposal, the business licensee shall maintain for three years a record of
6 the treatment and the name and quantity of the pesticide used.

7 G. This section does not apply to the application of pesticides
8 directly to structural components of wood or wood products, which are not
9 part of an existing structure normally habitable by persons, to prevent or
10 manage wood degradation by wood-destroying organisms.