

REFERENCE TITLE: pest management division

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

SB 1270

Introduced by
Senator Griffin

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.

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

5 Sec. 3. Section 3-374, Arizona Revised Statutes, is amended to read:
6 3-374. Availability of information to the public

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

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

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

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

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

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

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

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

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

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

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

38 CHAPTER 20

39 PEST MANAGEMENT DIVISION

40 Sec. 5. Transfer and renumber

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

	<u>Former Sections</u>	<u>New Sections</u>
1		
2	32-2301.....	3-3601
3	32-2302.....	3-3602
4	32-2304.....	3-3603
5	32-2305.....	3-3604
6	32-2306.....	3-3605
7	32-2307.....	3-3606

8 The following sections are transferred and renumbered for placement in
9 title 3, chapter 20, article 2:

	<u>Former Sections</u>	<u>New Sections</u>
10		
11	32-2311.....	3-3611
12	32-2311.01.....	3-3612
13	32-2311.02.....	3-3613
14	32-2312.....	3-3614
15	32-2313.....	3-3615
16	32-2314.....	3-3616
17	32-2315.....	3-3617
18	32-2317.....	3-3618

19 The following sections are transferred and renumbered for placement in
20 title 3, chapter 20, article 3:

	<u>Former Sections</u>	<u>New Sections</u>
21		
22	32-2321.....	3-3621
23	32-2323.....	3-3622
24	32-2324.....	3-3623
25	32-2325.....	3-3624
26	32-2326.....	3-3625
27	32-2327.....	3-3626

28 The following sections are transferred and renumbered for placement in
29 title 3, chapter 20, article 4:

	<u>Former Sections</u>	<u>New Sections</u>
30		
31	32-2331.....	3-3631
32	32-2332.....	3-3632
33	32-2333.....	3-3633

34 Sec. 6. Section 3-3601, Arizona Revised Statutes, as transferred and
35 renumbered, is amended to read:

36 **3-3601. Definitions**

37 In this chapter, unless the context otherwise requires:

38 1. "Branch office" means any fixed place of business, other than the
39 primary office, where records are kept, mail is received, statements are
40 rendered, money is collected, requests for service or bids are received,
41 information pertaining to the business of pest management is given or
42 pesticides are stored or disposed of.

43 2. "Branch supervisor" means a certified applicator working at or from
44 a branch office who is responsible for ensuring the training, equipping and
45 supervision of all applicators of the branch office.

1 3. "Business license" means a license that is issued pursuant to this
2 chapter or rules adopted pursuant to this chapter to a person and that
3 entitles that person and the person's employees to engage in the business of
4 pest management.

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

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

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

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

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

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

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

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

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

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

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

35 ~~12. "Director" means the director of the Arizona department of~~
36 ~~agriculture.~~

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

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

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

1 ~~15.~~ 14. "Household pests" means pests, other than wood-destroying
2 organisms, that invade households or other structures, including rodents,
3 vermin and insects.

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

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

13 ~~18.~~ 17. "Inquiry" means an initial investigation of possible
14 violations of this chapter or rules adopted pursuant to this chapter based on
15 information received from the public or ~~office~~ DIVISION staff.

16 ~~19.~~ 18. "Integrated pest management" means a sustainable approach to
17 managing pests that combines biological, cultural, physical and chemical
18 tools in a way that minimizes economic, health and environmental risks.

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

24 ~~21. "Office" means the office of pest management established by section~~
25 ~~32-2303.~~

26 ~~22.~~ 20. "Other structures" includes railroad cars, boats, docks, motor
27 vehicles or airplanes and their contents.

28 ~~23.~~ 21. "Pest management":

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

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

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

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

1 for the purpose of eliminating, exterminating, controlling or preventing
2 infestations.

3 ~~25-~~ 23. "Pesticide" means any substance or mixture of substances
4 intended to be used for preventing, destroying, repelling or mitigating
5 insects, fungi, bacteria, microbes, weeds, rodents, predatory animals or any
6 form of plant or animal life that is, or that the director may declare to be,
7 a pest and that may infest or be detrimental to vegetation, humans, animals
8 or households or be present in any environment.

9 ~~26-~~ 24. "Political subdivision" means a state agency, county, city,
10 town, municipal corporation or school district or a special district formed
11 pursuant to title 48.

12 ~~27-~~ 25. "Postconstruction treatment" means a treatment to control
13 wood-destroying organisms in or around an existing structure performed after
14 all soil disturbance associated with construction is complete and after an
15 applicator has completed an inspection of the structure and a treatment
16 proposal under section ~~32-2332~~ 3-3632, subsections A and B.

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

23 ~~29-~~ 27. "Prior violation" means any violation for which disciplinary
24 action was taken within a five-year period before the date of the violation
25 for which current disciplinary action is sought.

26 ~~30-~~ 28. "Qualifying party" means a certified qualified applicator
27 registered with the ~~office~~ DIVISION as the individual responsible for
28 ensuring the training, equipping and supervision of all applicators of a
29 business licensee or school district.

30 ~~31-~~ 29. "School" means any public or nonpublic institution, other than
31 a child's home, that is established for the purpose of offering instruction
32 to pupils in programs for preschool children with disabilities, kindergarten
33 programs or any combination of grades one through twelve and that qualifies
34 as a school pursuant to section 15-802.

35 ~~32-~~ 30. "Service vehicle" means a motor vehicle, including a trailer
36 attached to the motor vehicle, that is used to transport equipment or
37 pesticides for the business of pest management.

38 ~~33-~~ 31. "Sterilant" means a product that is designed for killing all
39 live vegetation and preventing all vegetation growth for twelve or more
40 months.

41 ~~34-~~ 32. "Weed" means any plant that grows where it is not wanted.

42 ~~35-~~ 33. "Wood-destroying insect inspection report" means a written
43 inspection report on a form approved by the director that is prepared in
44 connection with the sale or refinancing of real property whether or not the
45 report is used as part of the transaction.

1 ~~36-~~ 34. "Wood-destroying organisms" means organisms that attack,
2 damage or destroy wood or wood-derivative products, but does not include
3 birds or mammals.

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

6 3-3603. Powers and duties of director

7 A. The director is responsible for administering this chapter and
8 shall:

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

12 (a) Administrative provisions.

13 (b) Licensure, certification and registration requirements and
14 qualifications, including training and education requirements and financial
15 security standards.

16 (c) Health and safety provisions.

17 (d) Duties and responsibilities.

18 (e) Recordkeeping and production of records requirements.

19 (f) Licensee inspection and treatment report requirements.

20 (g) Disciplinary action provisions.

21 (h) Equipment provisions.

22 (i) Advertising requirements.

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

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

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

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

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

- 1 (b) The address or location of the work or project.
- 2 (c) The name of the pest management company.
- 3 (d) The name of the qualifying party.
- 4 (e) The applicator license numbers.
- 5 (f) The nature and date of the work performed.
- 6 (g) Any other information that is required by rule.
- 7 5. Establish offices the director deems necessary to carry out the
- 8 purposes of this chapter.
- 9 6. Subject to title 41, chapter 4, article 4, employ personnel the
- 10 director deems necessary to carry out the purposes of this chapter and
- 11 designate their duties.
- 12 7. Oversee the approval, content and method of delivery of continuing
- 13 education courses.
- 14 8. Deny a license to any person who has had a license revoked for a
- 15 period of five years from the time of revocation.
- 16 9. License applicators and qualified applicators and license
- 17 businesses in accordance with this chapter and rules adopted pursuant to this
- 18 chapter.
- 19 10. Register qualifying parties, branch supervisors and branch offices
- 20 in accordance with this chapter and rules adopted pursuant to this chapter.
- 21 11. Require the payment of a penalty for any late license renewal.
- 22 12. Refuse to issue a business license in a name that is not registered
- 23 with the secretary of state or filed with the Arizona corporation commission.
- 24 13. Adopt a wood-destroying insect inspection report form for use by
- 25 business licensees.
- 26 14. RECEIVE MONIES AUTHORIZED UNDER THIS CHAPTER FOR DEPOSIT, PURSUANT
- 27 TO SECTIONS 35-146 AND 35-147, IN THE APPROPRIATE FUNDS.
- 28 B. The director may:
- 29 1. Compel attendance of witnesses, administer oaths or affirmations
- 30 and take testimony concerning all matters coming within the director's
- 31 jurisdiction.
- 32 2. Issue subpoenas for the taking of depositions, the production of
- 33 documents and things and the entry on land for inspection and measuring,
- 34 surveying, photographing, testing or sampling the property or any designated
- 35 object or operation on the property relevant to an inquiry or complaint.
- 36 3. Contract and enter into interagency and intergovernmental
- 37 agreements with any private party or public agency.
- 38 4. With at least twenty-four hours' notice, unless there may be an
- 39 immediate risk to public health and safety, require a business licensee,
- 40 qualifying party or applicator to produce specific records. On a showing of
- 41 good cause by the business licensee, qualifying party or applicator, the
- 42 director may excuse failure to timely comply.
- 43 5. Deny or revoke a license based on the information in the
- 44 application.
- 45 6. Issue advisory notices for de minimis violations.

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

4 8. Require the public to provide notices regarding alleged violations
5 in writing.

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

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

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

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

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

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

27 (d) REQUEST THAT THE COUNTY ATTORNEY OR ATTORNEY GENERAL FILE CHARGES
28 AGAINST THE PERSON.

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

31 13. Register a certified applicator who is a representative of a
32 business licensee as a temporary qualifying party if the qualifying party
33 becomes disassociated with the business licensee.

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

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

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

45 ~~17.~~ 16. Enter into consent agreements and issue consent orders.

1 ~~18.~~ 17. Designate by rule devices that are exempt from the licensure,
2 certification and registration requirements of this chapter.

3 ~~19.~~ 18. Charge a person for providing copies of rules, forms or
4 policies proposed for adoption and for educational materials.

5 ~~20.~~ 19. Require a business licensee or qualifying party to register
6 with the ~~office~~ DIVISION or TO otherwise identify all of the licensed or
7 unlicensed applicators of the business or supervised by the qualifying party.

8 ~~21.~~ 20. Require a business licensee to produce records for the purpose
9 of verifying that an individual is an applicator of the business licensee.

10 ~~22.~~ 21. Charge a handling fee in addition to the transaction amount
11 for any transaction that could have been completed electronically and was
12 not.

13 ~~23.~~ 22. Deny or refuse to renew a license of a person who owes unpaid
14 fees or civil penalties to the ~~office~~ DIVISION.

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

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

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

34 3-3604. Pest management trust fund

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

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

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

1 B. THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE
2 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
3 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
4 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
5 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM
6 THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND
7 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND
8 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE
9 TRUST FUND.

10 C. THE BENEFICIARIES OF THE TRUST ARE THE DIVISION PROGRAMS
11 ESTABLISHED BY THIS CHAPTER. MONIES IN THE TRUST FUND SHALL BE DISBURSED AS
12 APPROVED BY THE DIRECTOR EXCLUSIVELY FOR THE PURPOSES PRESCRIBED IN THIS
13 CHAPTER.

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

16 E. IF THE DIVISION IS TERMINATED, ANY MONIES IN THE TRUST FUND SHALL
17 BE EXPENDED TO MEET EXISTING LEGAL OBLIGATIONS OF THE DIVISION. THE DIRECTOR
18 SHALL EXPEND ANY REMAINING MONIES ON ANY PROGRAM CONSISTENT WITH THIS
19 CHAPTER.

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

22 3-3605. Pest management division council; members; duties

23 A. The director shall establish by rule a pest management ~~advisory~~
24 ~~committee~~ DIVISION COUNCIL to assist and make recommendations to the director
25 regarding the administration and implementation of this chapter. The
26 director shall appoint five members to the ~~committee~~ COUNCIL, including one
27 public member.

28 B. THE PEST MANAGEMENT DIVISION COUNCIL SHALL:

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

31 2. ASSIST THE DIRECTOR IN FORMULATING ADMINISTRATIVE RULES FOR THE
32 DIVISION, INCLUDING REVIEWING, ADVISING AND MAKING RECOMMENDATIONS TO THE
33 DIRECTOR ON PROPOSED RULES BEFORE THE RULES ARE ADOPTED AND RECOMMENDING AND
34 INITIATING THE RULEMAKING PROCESS FOR RULES RELATING TO THIS CHAPTER.

35 3. ASSIST THE DIRECTOR IN DEVELOPING PROPOSED BUDGETS FOR THE
36 DIVISION.

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

38 C. IF THE DIRECTOR DETERMINES THAT THE RULEMAKING RECOMMENDATIONS OF
39 THE PEST MANAGEMENT DIVISION COUNCIL ARE PRACTICABLE AND IN THE BEST
40 INTERESTS OF THE PEST MANAGEMENT INDUSTRY AND THE PUBLIC, THE DIRECTOR SHALL
41 ACCEPT THE RULEMAKING RECOMMENDATIONS. IF THE DIRECTOR REJECTS THE
42 RULEMAKING RECOMMENDATIONS OF THE PEST MANAGEMENT DIVISION COUNCIL, THE
43 DIRECTOR SHALL PROVIDE A WRITTEN EXPLANATION OF THE REASONS FOR THE REJECTION
44 TO THE DIVISION COUNCIL NOT MORE THAN FIFTEEN DAYS AFTER THE DIRECTOR'S
45 DECISION TO REJECT THE RECOMMENDATIONS.

1 D. THE DIRECTOR SHALL INCLUDE THE COMMENTS OF THE PEST MANAGEMENT
2 DIVISION COUNCIL IN THE OFFICIAL RECORD WHEN ADOPTING RULES OR BUDGETS FOR
3 THE DIVISION.

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

6 3-3606. Pesticide applications at schools and child care
7 facilities; advance notification; exemptions

8 A. Only a certified applicator may apply pesticides at a school or
9 child care facility.

10 B. A business licensee or certified applicator shall notify a school
11 or a child care facility at least seventy-two hours in advance of any
12 pesticide application in order to permit the school to comply with section
13 15-152 and the child care facility to comply with section 36-898. The
14 ~~seventy-two hour~~ SEVENTY-TWO-HOUR advance notice shall include:

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

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

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

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

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

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

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

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

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

35 4. A STATEMENT THAT FURTHER INFORMATION, THE PRODUCT LABEL OR THE
36 SAFETY DATA SHEET IS AVAILABLE BY CONTACTING THE BUSINESS LICENSEE OR
37 CERTIFIED APPLICATOR.

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

41 1. Nonresidual pesticide applications performed or contracted by
42 public health agencies for adult vector control, provided that oral
43 notification is attempted at least seventy-two hours before the application,
44 when possible, to the school office or child care facility office with a

1 statement of the pest problem, treatment procedure, area to be treated and
2 approximate time of the application.

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

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

12 (b) Immediately after the application has been completed, notify the
13 school office or the child care facility office of the name of the pesticide
14 applied, the formulation, the strength and dosage and the date and time of
15 application and provide the pesticide label.

16 (c) Post the treated area immediately after the application. The
17 posting shall be at least eight and one-half inches by eleven inches and
18 shall include the name of the pesticide, the registration number issued by
19 the United States environmental protection agency, the date and time of
20 application and the name and telephone number of the business licensee and
21 certified applicator. A copy of the posting shall also be placed at the main
22 entrance to the school or child care facility. The posting and the copy of
23 the posting shall remain in place for at least forty-eight hours after the
24 application.

25 3. Disinfectants or swimming pool chemicals.

26 4. Block, gel or paste-type bait that is a toxicity category III or IV
27 formulation of insecticide pursuant to 40 Code of Federal Regulations section
28 156.62 and that is either of the following:

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

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

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

36 6. Personal repellants.

37 7. Nonrestricted use sanitizers and deodorizers.

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

40 3-3611. License and registration exemptions

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

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

1 2. Authorized representatives of any educational institution engaged
2 in research in the study of pest management or a state agency engaged in
3 research or the study of pest management.

4 3. Persons using a nonrestricted, ready-to-use disinfectant, sanitizer
5 or deodorizer.

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

9 5. Persons using an over-the-counter antimicrobial to treat a swimming
10 pool.

11 6. Persons using a device that is exempt pursuant to section ~~32-2304~~
12 ~~3-3603~~, subsection B, paragraph ~~18~~ 17.

13 7. Persons who are exempt pursuant to section ~~32-2311.01~~ 3-3612 or
14 ~~32-2311.02~~ 3-3613.

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

18 C. The director by rule may exempt from sections ~~32-2313~~ 3-3615 and
19 ~~32-2314~~ 3-3616 a certified applicator who performs inspections but does not
20 make recommendations, estimates, bids or contracts for treatment or use
21 pesticides or devices for pest management and may prescribe alternative
22 requirements and conditions.

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

25 3-3612. Political subdivisions; exemptions; definition

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

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

30 2. Must provide the department with the name and telephone number of
31 the primary contact person or persons responsible for responding to
32 department inquiries or concerns regarding compliance with this chapter. The
33 primary contact person or persons at a minimum shall demonstrate to the
34 department:

35 (a) Where the records are retained.

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

37 (c) Where the pesticides are stored.

38 (d) That all applicators are properly certified.

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

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

1 D. The following individuals are exempt from the certification
2 requirements of this chapter:

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

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

9 3. A volunteer of a political subdivision while applying herbicides
10 for the purpose of the eradication and control of noxious weeds as defined in
11 section 3-201 and who is under the immediate supervision of a certified
12 applicator. This exemption does not apply to a volunteer of a political
13 subdivision who:

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

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

17 (c) Uses sterilants.

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

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

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

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

27 3-3613 Landscapers; records; civil penalties

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

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

35 1. Uses herbicides that are labeled with the words "restricted use" or
36 "danger".

37 2. Uses sterilants or preemergent herbicides.

38 3. Offers weed management as the person's primary service or
39 advertises weed management services.

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

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

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

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

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

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

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

13 2. The date of the herbicide application.

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

15 4. The amount of the herbicide applied.

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

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

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

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

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

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

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

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

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

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

36 3-3615. Business license; financial security

37 A. A person who engages in the business of pest management shall
38 obtain a valid business license from the ~~office~~ DIVISION. A person who is
39 not exempt under this chapter and who advertises for, solicits or claims to
40 be willing to engage in the business of pest management is presumed to be
41 engaging in the business of pest management.

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

43 1. Be in a form and include the information prescribed by the
44 director.

45 2. Be accompanied by the prescribed fee.

1 3. Include the following proof of financial security:

2 (a) Either a deposit of money, liability insurance, self-insured
3 retention, a surety bond or a certified check protecting persons who may
4 suffer bodily injury or property damage as a result of the operations of the
5 applicant. The director shall not accept a bond or a liability insurance
6 policy unless it is issued by an insurer that holds a valid certificate of
7 authority or that is permitted to transact surplus lines insurance in this
8 state. The amount of the deposit, insurance, self-insured retention or bond
9 shall be at least five hundred thousand dollars and shall be maintained at
10 not less than that amount at all times during the licensing period. The
11 license of a business licensee whose financial security falls below the
12 minimum five hundred thousand dollars shall be suspended by the director and
13 shall remain suspended until the security meets the minimum financial
14 security requirement. The financial security need only cover those
15 particular operations in which the licensee is engaged at any time. If the
16 financial security is in the form of liability insurance or a surety bond,
17 the licensee shall furnish the director with a certificate of coverage that
18 indicates the coverages and endorsements required by this subsection on a
19 form prescribed by the director.

20 (b) Either of the following if the business licensee performs termite
21 treatments:

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

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

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

34 C. If an insurance policy provides for a deductible, the deductible
35 amount shall not exceed one ~~per cent~~ PERCENT of the total financial security
36 for each occurrence. If the deductible amount is in excess of one ~~per cent~~
37 PERCENT of the total financial security for each occurrence, the business
38 licensee shall provide other security as provided in this section or other
39 evidence of financial security for the excess deductible amount.

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

1 E. If the proof of financial security on file with the ~~office~~ DIVISION
2 expires, the business license is automatically suspended until a current
3 certificate of insurance or proof of financial responsibility is furnished to
4 the director.

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

7 3-3616. Qualifying party; registration

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

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

11 1. Be a certified qualified applicator.

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

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

16 3-3618. Fees

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

19 1. A business license.

20 2. A branch office registration.

21 3. A branch supervisor registration.

22 4. A qualifying party registration.

23 5. A temporary qualifying party registration.

24 6. Temporary qualifying party renewal registration.

25 7. Applicator certification.

26 8. A qualified applicator certification.

27 9. An applicator registration.

28 10. A duplicate license.

29 B. The director may charge and collect late fees in addition to the
30 fees listed in subsection A of this section.

31 C. The director may establish tiered fees for business licenses.

32 D. The director may charge and collect additional fees for GOODS AND
33 SERVICES that the director considers to be appropriate to carry out the
34 intent and purpose of this chapter. These additional fees shall not exceed
35 the costs of PROVIDING THE GOODS OR rendering the services.

36 Sec. 17. Section 3-3621, Arizona Revised Statutes, as transferred and
37 renumbered, is amended to read:

38 3-3621. Disciplinary action; grounds; procedure

39 A. If the director finds that a person has violated this chapter, a
40 rule adopted pursuant to this chapter or a written order of the director, the
41 director may issue a notice of violation and a cease and desist order to the
42 person and, after an opportunity for a hearing, take any of the following
43 disciplinary actions, in combination or alternatively:

44 1. Revoke a license or registration.

45 2. Suspend a license or registration.

- 1 3. Refuse to renew a license or registration.
- 2 4. Impose probation requirements that require a person to comply with
- 3 one or more specific provisions of this chapter or rules adopted pursuant to
- 4 this chapter and that require reporting by or monitoring of the person.
- 5 5. Impose a civil penalty in an amount of not more than one thousand
- 6 dollars for each violation except for grounds prescribed in section ~~32-2325~~
- 7 ~~3-3624~~, subsection B, paragraphs 8 and 9.
- 8 6. Require a qualifying party to report to the director the qualifying
- 9 party's role in the management of a business license.
- 10 7. Require an individual to take supplemental continuing education
- 11 within a time period set by the director.
- 12 B. Instead of taking disciplinary action for a violation pursuant to
- 13 subsection A of this section, the director may issue an administrative
- 14 warning.
- 15 C. Except as provided in section 41-1092.11, the director may take
- 16 disciplinary action against a business licensee pursuant to subsection A of
- 17 this section only if any of the following applies:
- 18 1. The business licensee has committed a prior violation of the same
- 19 type, including any violation by any applicator of the business licensee.
- 20 2. The business licensee failed to follow a written order of the
- 21 director directing it to correct a deficiency or problem within the time
- 22 specified.
- 23 3. The business licensee has knowingly assumed operations for a
- 24 business licensee whose license has been revoked and during the first three
- 25 years after revocation allows the former licensee to play an active role in
- 26 company policy, decisions, sales or supervision of applicators.
- 27 4. The business licensee is convicted of a felony.
- 28 5. The business licensee is determined by the director to have
- 29 committed a violation in connection with a pretreatment, new-construction
- 30 treatment or final grade treatment.
- 31 6. The business licensee uses applicators to provide pest management
- 32 services that are not registered pursuant to the requirements established
- 33 under section ~~32-2304~~ 3-3603, subsection B, paragraph ~~20~~ 19.
- 34 7. The business licensee fails to provide written notice immediately
- 35 following a pest management treatment in or around residential structures of
- 36 four or fewer units to the person requesting the treatment or to the person's
- 37 designated agent. The notice shall include the specific pesticide by trade
- 38 name used in the treatment.
- 39 8. The business licensee performing pest management treatments on an
- 40 ongoing basis to locations other than residential structures of four or fewer
- 41 units fails to provide written notice to the person who requested the
- 42 treatments or the person's designated agent. Notice shall be given before
- 43 the first application of the pesticide and when new or additional pesticides
- 44 are used or immediately after each treatment.

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

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

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

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

19 12. The business licensee, within twelve months after completion of a
20 termite pretreatment or new-construction treatment, fails either to file a
21 supplemental termite action report in a form provided by the director that
22 indicates the completion of the final grade treatment or to report in writing
23 why the treatment has not been completed and when it will be completed.

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

26 14. The business licensee fails within thirty calendar days to pay
27 civil penalties imposed under this chapter or rules adopted pursuant to this
28 chapter.

29 15. The business licensee engages in the business of pest management
30 while the business license is suspended.

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

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

38 F. The license of a person who does not renew the license and who has
39 been advised in writing that an investigation or complaint is pending at the
40 time the license is due to expire or terminate does not expire or terminate
41 until the investigation or complaint is resolved. The license is suspended
42 on the date it would otherwise expire or terminate until the person renews
43 the license or the investigation or complaint is resolved.

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

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

6 3-3623. Civil penalties: suspension

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

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

13 C. A license, certification or registration suspended under subsection
14 A of this section shall be revoked without a hearing after one year of
15 suspension. Revocations under this subsection are not subject to section
16 ~~32-2304~~ 3-3603, subsection A, paragraph ~~8~~ 7.

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

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

22 3-3624. Unlawful acts: violations: classification

23 A. A person shall not:

24 1. Engage in the business of pest management, **COMMENCE WORK ON A**
25 **CONTRACT OR SIGN, ISSUE OR DELIVER ANY DOCUMENT EXPRESSING AN OPINION OR**
26 **STATEMENT RELATING TO PEST MANAGEMENT** without a business license issued
27 pursuant to this chapter, unless the person is otherwise exempt pursuant to
28 this chapter.

29 2. Engage in the business of pest management in any category without a
30 qualifying party who is registered in that category.

31 3. Operate a branch office without a registered branch supervisor
32 under whose direct supervision pesticide applications are made out of that
33 office.

34 4. Apply pesticides in any category other than wood-destroying
35 organism management or fumigation unless the person is an applicator
36 certified in that category or applies the pesticides under the direct
37 supervision of an applicator certified in that category.

38 5. Apply pesticides in the category of wood-destroying organism
39 management, aquatic pest management or fumigation unless the person is an
40 applicator certified in that category or the person applies the pesticides
41 under the immediate supervision of an applicator certified in that category.

42 6. Make recommendations regarding pest management unless the person is
43 a certified applicator.

44 7. Deny ~~to an authorized inspector~~ **THE DIRECTOR OR ANY AGENT OF THE**
45 **DIRECTOR** the right to be present on a jobsite in connection with a

1 contemporaneous pest management treatment, including for the purpose of
2 taking pesticide samples and soil samples.

3 B. The following nonexclusive acts are grounds for disciplinary
4 action:

5 1. Violating this chapter, rules adopted pursuant to this chapter or a
6 written order of the director.

7 2. Making false or fraudulent records or reports.

8 3. Misrepresenting a material fact in obtaining a license.

9 4. Applying pesticides in a manner that is inconsistent with the label
10 and labeling of the pesticide or that may cause harm to the public, the
11 environment or nontarget animals.

12 5. Misusing a pesticide if the misuse is due to the failure of the
13 person to properly train or supervise. Proper training includes training to
14 read and understand the label and labeling and to understand the proper use
15 of application equipment. Proper supervision includes oversight of
16 applicators to ensure general compliance with the label and labeling and all
17 applicable laws.

18 6. Authorizing, directing or abetting the publication, advertisement,
19 distribution or circulation of any false statement or material
20 misrepresentation concerning a business of pest management.

21 7. Engaging in the business of pest management or providing pest
22 management services under a suspended license.

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

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

29 10. Making a fraudulent statement or an intentional material
30 misrepresentation in connection with a wood treatment proposal or a
31 wood-destroying insect inspection report.

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

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

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

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

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

1 16. Failing to make treatment records available on request of the
2 property owner or the property owner's authorized agent within three business
3 days.

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

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

10 19. Violating the terms of a consent agreement or written order of the
11 director.

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

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

17 3-3625. Business license; principals; definition

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

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

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

30 3-3631. Termite action report form; exemption

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

38 B. The termite action report form shall include:

- 39 1. The address or location of the work or project.
- 40 2. The type and date of the work.
- 41 3. The name of the business licensee.
- 42 4. Any other information required by rule.

43 C. The director may:

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

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

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

9 D. If the business licensee who performs an initial corrective
10 treatment performed the pretreatment or new-construction treatment at the
11 same site and filed a termite action report form with the ~~office~~ DIVISION
12 documenting the pretreatment or new-construction treatment, the business
13 licensee is exempt from this section with respect to the initial corrective
14 treatment.

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

17 32-1121. Persons not required to be licensed; penalties;
18 applicability

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

20 1. An authorized representative of the United States government, this
21 state or any county, incorporated city or town, reclamation district,
22 irrigation district or other municipality or political subdivision of this
23 state.

24 2. Trustees of an express trust that is not formed for the purpose of
25 conducting business as a contractor or officers of a court, if they are
26 acting within the terms of their trust or office.

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

31 4. Any materialman, manufacturer or retailer who furnishes finished
32 products, materials or articles of merchandise and who does not install or
33 attach such items or installs or attaches such items if the total value of
34 the sales contract or transaction involving such items and the cost of the
35 installation or attachment of such items to a structure does not exceed one
36 thousand dollars, including labor, materials and all other items, but
37 excluding any electrical fixture or appliance that was designed by the
38 manufacturer, that is unaltered, unchanged or unmodified by any person, that
39 can be plugged into a common household electrical outlet utilizing a ~~two~~
40 ~~pronged~~ TWO-PRONGED or ~~three-pronged~~ THREE-PRONGED electrical connector and
41 that does not use any other form of energy, including natural gas, propane or
42 other petroleum or gaseous fuel, to operate or is attached by a nail, screw
43 or other fastening device to the frame or foundation of any residential
44 structure. The materialman, manufacturer or retailer shall inform the

1 purchaser that the installation may also be performed by a licensed
2 contractor whose name and address the purchaser may request.

3 5. Owners of property who improve such property or who build or
4 improve structures or appurtenances on such property and who do the work
5 themselves, with their own employees or with duly licensed contractors, if
6 the structure, group of structures or appurtenances, including the
7 improvements thereto, are intended for occupancy solely by the owner and are
8 not intended for occupancy by members of the public as the owner's employees
9 or business visitors and the structures or appurtenances are not intended for
10 sale or for rent. In all actions brought under this chapter, except an
11 action against an owner-occupant as defined in section 33-1002, proof of the
12 sale or rent or the offering for sale or rent of any such structure by the
13 owner-builder within one year after completion or issuance of a certificate
14 of occupancy is prima facie evidence that such project was undertaken for the
15 purpose of sale or rent. For the purposes of this paragraph, "sale" or
16 "rent" includes any arrangement by which the owner receives compensation in
17 money, provisions, chattels or labor from the occupancy or the transfer of
18 the property or the structures on the property.

19 6. Owners of property who are acting as developers and who build
20 structures or appurtenances to structures on their property for the purpose
21 of sale or rent and who contract for such a project with a general contractor
22 licensed pursuant to this chapter and owners of property who are acting as
23 developers, who improve structures or appurtenances to structures on their
24 property for the purpose of sale or rent and who contract for such a project
25 with a general contractor or specialty contractors licensed pursuant to this
26 chapter. To qualify for the exemption under this paragraph, the licensed
27 contractors' names and license numbers shall be included in all sales
28 documents.

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

33 (a) Subsurface utility location and designation services.

34 (b) Potholing.

35 (c) Drilling for any of the following:

36 (i) Soil samples.

37 (ii) Rock samples.

38 (iii) Pavement samples.

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

41 8. A person licensed, certified or registered pursuant to [TITLE 3](#),
42 chapter ~~22 of this title~~ 20 or a person working under the direct supervision
43 of a person certified or qualified pursuant to [TITLE 3](#), chapter ~~22 of this~~
44 ~~title~~ 20 to the extent the person is engaged in pest management.

1 9. The sale or installation of finished products, materials or
2 articles of merchandise that are not fabricated into and do not become a
3 permanent fixed part of the structure. This exemption does not apply if a
4 local building permit is required, if the total price of the finished
5 product, material or article of merchandise, including labor but excluding
6 any electrical fixture or appliance that was designed by the manufacturer,
7 that is unaltered, unchanged or unmodified by any person, that can be plugged
8 into a common household electrical outlet utilizing a ~~two-pronged~~ TWO-PRONGED
9 or ~~three-pronged~~ THREE-PRONGED electrical connector and that does not use any
10 other form of energy, including natural gas, propane or other petroleum or
11 gaseous fuel, to operate or is attached by a nail, screw or other fastening
12 device to the frame or foundation of any residential structure, is more than
13 one thousand dollars or if the removal of the finished product, material or
14 article of merchandise causes damage to the structure or renders the
15 structure unfit for its intended use.

16 10. Employees of the owners of condominiums, townhouses, cooperative
17 units or apartment complexes of four units or less or the owners' management
18 agent or employees of the management agent repairing or maintaining
19 structures owned by them.

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

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

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

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

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

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

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

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

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

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

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

26 C. Any person who does not have an exemption from licensure pursuant
27 to subsection A, paragraph 14, subdivision (c) of this section is subject to
28 prosecution for a violation of section 44-1522. The attorney general may
29 investigate the act or practice and take appropriate action pursuant to title
30 44, chapter 10, article 7.

31 D. The exemptions from licensure pursuant to subsection A, paragraphs
32 4, 9 and 14 of this section do not apply to either of the following:

33 1. All fire safety and mechanical, electrical and plumbing work that
34 is done in connection with fire safety installation and fire safety
35 maintenance and repair. For the purposes of this paragraph, "fire safety
36 installation" means hardwired or interconnected smoke alarms and fire
37 sprinklers and does not include an individual device that is attached by a
38 nail, screw or other fastening device to the frame or foundation of any
39 residential unit. For the purposes of this paragraph, fire safety
40 maintenance and repair does not include routine work that is conducted by an
41 employee of an apartment or condominium complex AND that is incidental to the
42 fire safety equipment.

43 2. All work that is done, including the installation, maintenance and
44 repair of devices, appliances or equipment, that involves the connecting to

1 any supply of natural gas, propane or other petroleum or gaseous fuel.
2 Nothing in this paragraph impacts the effect of section 36-1624.01.

3 Sec. 23. Heading repeal

4 The chapter heading of title 32, chapter 22, Arizona Revised Statutes,
5 is repealed.

6 Sec. 24. Repeal

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

8 Sec. 25. Section 36-606, Arizona Revised Statutes, is amended to read:

9 36-606. Pesticide illness; medical education; reports

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

15 1. Medical education programs to alert health care professionals to
16 the symptoms, diagnosis, treatment and reporting of pesticide provoked
17 illnesses.

18 2. A statewide reporting network, which shall:

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

23 (b) Catalogue and retrieve data regarding pesticide poisoning for use
24 in worker and public health education programs to prevent pesticide
25 poisoning.

26 B. The health care professional or poison control center required to
27 file an incident report required pursuant to subsection A, paragraph 2,
28 subdivision (a) OF THIS SECTION shall specifically indicate in the incident
29 report the reason for believing that the illness is caused by or related to
30 documented exposure to a pesticide and shall specify if the illness is caused
31 by the documented exposure or is related to the documented exposure. All
32 incident reports shall be filed with the director. The director shall
33 provide to the Arizona department of agriculture all records, reports and
34 information of all illnesses resulting from documented exposure to
35 agriculture pesticides and ~~shall provide to the office of pest management all~~
36 ~~records, reports and information of all illnesses resulting from documented~~
37 ~~exposure to~~ structural pesticides.

38 Sec. 26. Section 36-898, Arizona Revised Statutes, is amended to read:

39 36-898. Licensees; pesticide application; notice; definitions

40 A. The director, in consultation with licensees, personnel of
41 licensees, parents, guardians, administrators, members of the public, a
42 qualifying party and at least one health professional, shall develop and
43 adopt a policy to provide parents, guardians, children and personnel with at
44 least forty-eight hours' notice before pesticides are applied on licensee
45 property.

- 1 B. The policy shall include at least the following:
- 2 1. Procedures for providing the notification, including:
- 3 (a) Procedures for written notification to parents, guardians or an
- 4 individual authorized by a parent or guardian during a regular child care
- 5 session.
- 6 (b) Procedures for requiring the licensee to post signs to identify
- 7 pesticide application areas.
- 8 2. Procedures for requiring any contracted pest control applicator to
- 9 provide detailed and sufficient information to licensees for the purpose of
- 10 completing the posting materials.
- 11 C. The policy shall include exemptions for the following pesticide
- 12 applications:
- 13 1. Nonresidual pesticide applications performed or contracted by
- 14 public health agencies for adult vector control.
- 15 2. Emergency pesticide applications of a pesticide that has a toxicity
- 16 category of III or IV pursuant to 40 Code of Federal Regulations section
- 17 156.62 to control harmful pests that pose an immediate threat to the public
- 18 health.
- 19 3. Disinfectants or swimming pool chemicals.
- 20 4. Block, gel or paste-type bait that is a toxicity category III or IV
- 21 formulation of insecticide pursuant to 40 Code of Federal Regulations section
- 22 156.62 and that is either of the following:
- 23 (a) Secured in an enclosed, tamper-resistant bait station and placed
- 24 in an area that is inaccessible to children.
- 25 (b) Applied to a crack or crevice inaccessible to children.
- 26 5. Block-type bait that is a toxicity level III or IV formulation of
- 27 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
- 28 that is secured in an enclosed, tamper-resistant bait station placed in an
- 29 area inaccessible to children.
- 30 6. Personal repellants.
- 31 7. Any pesticide exempt from regulation by the United States
- 32 environmental protection agency pursuant to the federal insecticide,
- 33 fungicide and rodenticide act (7 United States Code section 136w).
- 34 D. Each licensee shall maintain written records of pesticide
- 35 application notifications for a period of at least three years after the
- 36 application. The licensee may delegate to the pest control applicator the
- 37 duty to fill out and post notices required by department policy. A licensee
- 38 is not required to maintain records of pesticides that are exempt pursuant to
- 39 subsection C of this section.
- 40 E. For the purposes of this section:
- 41 1. "Child care" has the same meaning prescribed in section 36-881.
- 42 2. "Department" means the department of health services.
- 43 3. "Licensee" means a person who is regulated pursuant to this
- 44 chapter.

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

6 5. "Qualifying party" has the same meaning prescribed in section
7 ~~32-2301~~ 3-3601.

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

10 41-1092. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Administrative law judge" means an individual or an agency head,
13 board or commission that sits as an administrative law judge, that conducts
14 administrative hearings in a contested case or an appealable agency action
15 and that makes decisions regarding the contested case or appealable agency
16 action.

17 2. "Administrative law judge decision" means the findings of fact,
18 conclusions of law and recommendations or decisions issued by an
19 administrative law judge.

20 3. "Appealable agency action" means an action that determines the
21 legal rights, duties or privileges of a party and that is not a contested
22 case. Appealable agency actions do not include interim orders by
23 self-supporting regulatory boards, rules, orders, standards or statements of
24 policy of general application issued by an administrative agency to
25 implement, interpret or make specific the legislation enforced or
26 administered by it or clarifications of interpretation, nor does it mean or
27 include rules concerning the internal management of the agency that do not
28 affect private rights or interests. For the purposes of this paragraph,
29 administrative hearing does not include a public hearing held for the purpose
30 of receiving public comment on a proposed agency action.

31 4. "Director" means the director of the office of administrative
32 hearings.

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

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

36 7. "Self-supporting regulatory board" means any one of the following:

37 (a) The Arizona state board of accountancy.

38 (b) The state board of appraisal.

39 (c) The board of barbers.

40 (d) The board of behavioral health examiners.

41 (e) The Arizona state boxing and mixed martial arts commission.

42 (f) The state board of chiropractic examiners.

43 (g) The board of cosmetology.

44 (h) The state board of dental examiners.

45 (i) The state board of funeral directors and embalmers.

- 1 (j) The Arizona game and fish commission.
- 2 (k) The board of homeopathic and integrated medicine examiners.
- 3 (l) The Arizona medical board.
- 4 (m) The naturopathic physicians medical board.
- 5 (n) The state board of nursing.
- 6 (o) The board of examiners of nursing care institution administrators
- 7 and adult care home managers.
- 8 (p) The board of occupational therapy examiners.
- 9 (q) The state board of dispensing opticians.
- 10 (r) The state board of optometry.
- 11 (s) The Arizona board of osteopathic examiners in medicine and
- 12 surgery.
- 13 (t) The Arizona peace officer standards and training board.
- 14 (u) The Arizona state board of pharmacy.
- 15 (v) The board of physical therapy.
- 16 (w) The state board of podiatry examiners.
- 17 (x) The state board for private postsecondary education.
- 18 (y) The state board of psychologist examiners.
- 19 (z) The board of respiratory care examiners.
- 20 ~~(aa) The office of pest management.~~
- 21 ~~(bb)~~ (aa) The state board of technical registration.
- 22 ~~(cc)~~ (bb) The Arizona state veterinary medical examining board.
- 23 ~~(dd)~~ (cc) The acupuncture board of examiners.
- 24 ~~(ee)~~ (dd) The Arizona regulatory board of physician assistants.
- 25 ~~(ff)~~ (ee) The board of athletic training.
- 26 ~~(gg)~~ (ff) The board of massage therapy.
- 27 Sec. 28. Exemption from rulemaking
- 28 For the purposes of this act, the Arizona department of agriculture is
- 29 exempt from the rulemaking requirements of title 41, chapter 6, Arizona
- 30 Revised Statutes, for one year after the effective date of this act.
- 31 Sec. 29. Effective date; retroactivity
- 32 This act is effective and applies retroactively to from and after June
- 33 30, 2016.