

Committee Substitute for Senate Bill No. 2042

An act relating to pest control operators; amending s. 482.021, F.S.; defining the term “new construction”; amending s. 482.051, F.S.; providing for the issuance of stop-work orders where fumigations are being performed in certain situations; creating s. 482.0815, F.S.; requiring licensees to hold a permit before performing preventive termite treatments for new construction; providing procedures for the issuance of permits and providing penalties for specified violations; providing for the adoption of rules; amending s. 482.091, F.S.; requiring certain cardholders to obtain specified classroom training; amending s. 482.132, F.S.; providing alternative educational requirements for pest control operator’s certificate applicants; amending s. 482.161, F.S.; limiting the application of sanctions for violations by licensees with multiple business locations; amending s. 482.242, F.S.; providing additional exceptions to the state’s preemption of pest control regulation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (18) through (27) of section 482.021, Florida Statutes, are redesignated as subsections (19) through (28), respectively, and a new subsection (18) is added to that section, to read:

482.021 Definitions.—For the purposes of this chapter, and unless otherwise required by the context, the term:

(18) “New construction” means the erection of a new building or the construction of an addition to an existing building, which encloses a space and requires a building permit under applicable building codes.

Section 2. Subsection (6) is added to section 482.051, Florida Statutes, to read:

482.051 Rules.—The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(6) That the department may issue an immediate stop-use or stop-work order for fumigation performed in violation of fumigant label requirements or department rules, or in a manner that presents an immediate serious danger to the health, safety, or welfare of the public, including, but not limited to, failure to use required personal protective equipment, failure to use a required warning agent, failure to post required warning signs, failure to secure a structure’s usual entrances as required, or using a fumigant in a manner that will likely result in hazardous exposure to humans, animals, or the environment.

Section 3. Section 482.0815, Florida Statutes, is created to read:

482.0815 Permit to perform preventive termite treatment services for new construction only.—

(1) A licensee must have a permit to perform preventive termite treatments for new construction, except for preventive termite treatments on additions to existing structures for which the licensee has a current termite treatment contract.

(2) A permit shall be automatically renewed upon renewal of the license held by the licensee, unless the permit has been suspended, revoked, or otherwise denied.

(3) A permit shall be probationary for 120 days after a licensee is found to be in violation of s. 482.051(5) or a rule relating to the application of specific amounts, concentrations, and treatment areas, except for provisions governing recordkeeping. A licensee whose permit is on probationary status must provide advance notice to the department of any preventive treatment planned for new construction.

(4) A licensee's permit shall be suspended for a 30-day to 90-day period if:

(a) The licensee whose permit is on probationary status violates s. 482.051(5) or a rule relating to the application of specific amounts, concentrations, or treatment areas, except for provisions governing recordkeeping, at three or more sites on three or more separate dates;

(b) The licensee violates s. 482.051(3) or a rule with respect to three contracts within 2 years and the violation is failure to comply with contractual obligations to re-treat a wood-destroying-organism infestation or to repair damage caused by wood-destroying organisms when required by the contract. If a licensee makes a good-faith offer to repair damage covered by a valid contract, the licensee must be considered to be in compliance with the contractual obligation;

(c) The licensee violates subsection (9); or

(d) The licensee violates the recordkeeping requirements of s. 482.051(5) three or more times within 2 years.

(5) A suspended permit may be reinstated after the period of the suspension if the licensee's license is in good standing.

(6) The permit of a licensee whose permit has been suspended within the previous 3 years shall be revoked if the licensee subsequently meets any of the conditions of subsection (4).

(7) The department may not issue a permit or renew the permit to perform preventive termite treatments if the applicant or licensee or any of its directors, officers, owners, or general partners are or were directors, officers, owners, or general partners of a pest control business that went out of business or sold the business within 5 years immediately preceding the date

of application or renewal and failed to reimburse the prorated renewal fee of any customer's remaining wood-destroying-organism contract periods or failed to provide for another licensed pest control operator to assume its existing wood-destroying-organism contract responsibility.

(8) A licensee must conspicuously display its current permit at all business locations, each of which must have a separate permit.

(9) A licensee holding a permit must maintain accurate records of all pesticides purchased, obtained, or available for its use; the total amount of the area treated using soil applied termiticides; and the total number of sites treated using this and any other method of treatment. These records must be made available to the department upon request. The amount of pesticides purchased, obtained, or otherwise available must at least equal the amount required by the pesticide label to treat the area or number of sites treated.

(10) The department shall suspend the license of any licensee who performs preventive termite treatments for new construction while its permit is suspended or revoked.

(11) The department shall adopt rules necessary to administer this section.

Section 4. Subsection (10) is added to section 482.091, Florida Statutes, to read:

482.091 Employee identification cards.—

(10) In addition to the training required by s. 482.091(3), each identification cardholder must receive 4 hours of classroom training in pesticide safety, integrated pest management, and applicable federal and state laws and rules within 6 months after issuance of the card or must have received such training within 2 years before issuance of the card. Each cardholder must receive at least 2 hours of continuing training in pesticide safety, integrated pest management, and applicable federal and state laws and rules by the renewal date of the card. Certified operators who maintain their certificates in good standing are exempt from this subsection. The department shall adopt rules regarding verification of such training.

Section 5. Paragraph (b) of subsection (2) of section 482.132, Florida Statutes, is amended to read:

482.132 Qualifications for examination and certification.—

(2) Each applicant for examination for a pest control operator's certificate must possess the minimum qualifications specified in one of the following paragraphs:

(b) A degree with advanced training or a major in entomology, botany, agronomy, or horticulture from a recognized college or university, which training or major included the completion of at least 20 semester hours or 30 quarter hours of college credits in those subjects, plus 1 year's employment as a service employee of a licensee that performs pest control in the

category or categories in which the applicant seeks certification or the successful completion of a 1-year entomology program at a public university in this state which specializes in urban pest management and includes practical pest management experience. If such advanced training or major is in entomology, the applicant is qualified for examination in all categories; but if such advanced training or major is in botany, agronomy, or horticulture, the applicant is qualified for examination only in the category of lawn and ornamental pest control.

Section 6. Subsection (4) of section 482.161, Florida Statutes, is amended to read:

482.161 Disciplinary grounds and actions; reinstatement.—

(4) Any charge of a violation of this chapter or of the rules adopted pursuant to this chapter by a licensee affects only the license or permit of the business location from which the violation is alleged to have occurred. Another license or permit may not be issued to the same licensee, or to any person who has an ownership interest in the suspended or revoked business license of the licensee and who knew or should have known of the violation that resulted in the suspension or revocation, for a new business location in the same county or any contiguous county for a period of 3 years after the effective date of the suspension or revocation.

Section 7. Subsection (1) of section 482.242, Florida Statutes, is amended to read:

482.242 Preemption.—

(1) This chapter is intended as comprehensive and exclusive regulation of pest control in this state. The provisions of this chapter preempt to the state all regulation of the activities and operations of pest control services, including the pesticides used pursuant to labeling and registration approved under chapter 487. No local government or political subdivision of the state may enact or enforce an ordinance that regulates pest control, except that the preemption in this section does not prohibit a local government or political subdivision from enacting an ordinance regarding any of the following:

(a) Local occupational licenses adopted pursuant to chapter 205.

(b) Land development regulations adopted pursuant to chapter 163 which include regulation of any aspect of development, including a subdivision, building construction, sign regulation or any other regulation concerning the development of land, or landscaping or tree protection ordinances which do not include pesticide application restrictions.

(c) Regulations that:

1. Require, for multi-complex dwellings in excess of 10 units, annual termite inspections for termite activity or damage, including Formosan termites, which must be performed by a person licensed under this chapter.

2. Require pest control treatments of structures that have termite activity or damage which must be performed by a person licensed under this chapter.

3. Require property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under this chapter.

An ordinance by a local government or political subdivision which requires an annual inspection or pest control treatment must conform to current law.

~~(d)~~(e) Protection of wellhead protection areas and high recharge areas.

~~(e)~~(d) Hazardous materials reporting as set forth in part II of chapter 252, storage, and containment including as relating to stormwater management.

~~(f)~~(e) Hazardous material unlawful discharge and disposal.

~~(g)~~(f) Hazardous materials remediation.

Section 8. This act shall take effect July 1, 2001.

Approved by the Governor June 19, 2001.

Filed in Office Secretary of State June 19, 2001.