

STORAGE NAME: h1681a.br.doc
DATE: April 9, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 1681
RELATING TO: Pest control operators
SPONSOR(S): Representative(s) Miller
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 7 NAYS 0
 - (2) BUSINESS REGULATION
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
-

I. SUMMARY:

From 1997 to 1999, nearly half of the pre-construction termite prevention treatments observed by the Department of Agriculture and Consumer Services (department) were not in compliance with existing laws. HB 1681 revises pest control regulation in an effort to improve pre-construction home termite treatments.

The bill provides the department with the authority to establish, by rule, a written authorization for pre-construction termite treatments for pest control licensees. This written authorization could be suspended or revoked separately from the business license granted under Chapter 482, F.S. This provision is designed to improve the ability of the department to enforce the requirements of this chapter for improper and ineffective termite treatments.

In addition, the bill establishes requirements for standardized training for pest control technicians and authorizes stop-work orders on structural fumigations. It also repeals an exemption allowing a yard worker to apply pesticides, which have been supplied by the residential property owner, to the owner's lawn or ornamental plants.

This legislation has no fiscal impact and will take effect on July 1, 2001.

On April 4, 2001, the Committee on Agriculture and Consumer Affairs adopted three amendments, which are traveling with the bill. The changes include two technical amendments and the removal; from the bill of the provision that proposes to repeal the yard worker authority to apply certain pesticides that are provided by the property owner. Please see section VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 482, F.S., Florida's Structural Pest Control Act, authorizes the Department of Agriculture and Consumer Services (department) to regulate the pest control industry. The department establishes qualifications for pesticide applicators, approves applications for licenses of pest control applicators, and regulates the use of pesticides.

Termites are a serious problem in Florida where the humidity is high and structures are built with wood-to-ground and wood-to-water contact. Termites attack and damage building material that contains cellulose, such as wood used in house and building construction, drywall covered with paper, or siding materials containing cellulose. Houses and other wood structures can be protected from termites if they are constructed and maintained properly and a protective treatment is applied correctly.

In 1988, the federal government banned chlordane, which was used to treat the soil prior to finishing the foundation as a means of controlling termites and protecting the wood in a structure. This product was replaced with pesticides considered to be safer for the environment and human health. However, these characteristics also made the products less effective for termite protection. While chlordane generally lasted more than 30 years, currently available materials last only five to 15 years, and require more precise application.

From 1997 to 1999, nearly half of the pre-construction termite prevention treatments observed by the department were not in compliance with existing laws. The department has been working with county building code inspectors, home builder associations, and pest control associations to develop cooperative working relationships that will result in improved pre-construction home termite treatments. The department has also developed educational brochures to inform the public about proper pest control and their rights under existing law.

C. EFFECT OF PROPOSED CHANGES:

Section 1: Amends s. 482.021, F.S., to define "new construction" as 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: Amends s. 482.051, F.S., to allow the department to issue immediate stop-use or stop-work orders 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.

Section 3: Creates s. 482.0815, F.S., to require licensees to hold a permit in order to perform preventive termite treatments for new construction; providing for renewal of the permit; providing for a 120-day probationary period if a licensee is found in violation of s. 482.051(5) or certain specified rules; providing for a 30-90 day suspension of a licensee's permit if:

- A licensee whose permit is on probationary status violates s. 482.051(5) or certain specified rules;
- A licensee violates s. 482.051(3) or a rule with respect to three contracts within two 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;
- A licensee fails to maintain accurate records of all pesticides purchased and used, the total amount of the area treated using soil applied termiticides, and the total number of sites treated; or
- A licensee violates the record keeping requirements of s. 482.051(5) three or more times within two years.

Section 3 also authorizes a suspended permit to be reinstated after the period of suspension if the licensee's license is in good standing; prohibits the department from issuing a permit or renewing the written authorization if a business has gone out of business or been sold within five 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 or failed to provide for another licensed pest control operator to assume contract responsibility; requires a licensee to conspicuously display its current permit at all business locations, each of which must have a separate permit; requires a licensee to maintain accurate records of all pesticides purchased and used, the total amount of the area treated using soil applied termiticides, and the total number of sites treated; authorizes the department to suspend the license of any licensee who performs preventive termite treatments for new construction while the permit is suspended or revoked; and, authorizes the department to adopt rules necessary to administer this section.

Section 4: Amends s. 482.091, F.S., to require each identification cardholder to receive four hours of specified classroom training; authorizing the department to adopt rules regarding verification of such training.

Section 5: Amends s. 482.132, F.S., to allow the successful completion of a 1-year entomology program at a public university in this state that specializes in urban pest management and includes practical pest management experience to satisfy the minimum qualifications for examination.

Section 6: Amends s. 482.161, F.S., to limit the application of sanctions for violations by a licensee with multiple business locations to the business location from which the violation is alleged to have occurred.

Section 7: Repeals s. 482.211(11), F.S., to allow a yard worker to apply pesticides, supplied by the residential property owner, to the owner's lawn or ornamental plants.

Section 8: Provides an effective date of July 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

Please see Section C. (Effect of Proposed Changes).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Each pesticide applicator/ID cardholder will be responsible for the cost of obtaining a minimum of four hours on initial training and two additional hours of continuing education.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that or counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

Section 482.0815(11), F.S., gives the department rulemaking authority to administer the permitting program for performing termite treatment services for new construction.

Section 482.091(10), F.S., gives the department rulemaking authority regarding the verification of training to qualify for employee identification cards.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

COMMITTEE ON AGRICULTURE AND CONSUMER AFFAIRS

On April 4, 2001, the Committee on Agriculture and Consumer Affairs adopted three amendments. Amendments 1 and 2 replace the phrase "written authorization" with the word "permit." These are technical amendments to correct a bill drafting error.

Amendment 3 removes the repeal of subsection (11) of section 482.211, F.S. This subsection allows a yard worker to apply pesticides, supplied by the residential property owner, to the owner's lawn or ornamental plants.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Debbi Kaiser

Susan Reese

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION:

Prepared by:

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Alan W. Livingston

Paul Liepshutz