

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1052

SPONSOR: Agriculture and Consumer Services Committee and Senator Silver

SUBJECT: Pest-Control Regulation

DATE: March 23, 2001 REVISED: 03/27/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes licensed osteopathic physicians to provide the certification required to include a person on the Pesticide Notification Registry, which is maintained by the Department of Agriculture and Consumer Services.

This bill also provides additional exceptions to the state’s preemption of pest-control regulation by allowing local regulations requiring annual termite inspections and pest control treatments of structures that have termite activity or damage, and regulations requiring property owners or other persons to obtain inspections or pest control treatments. Such regulations must conform to current law.

This bill amends sections 482.2267 and 482.242, Florida Statutes.

II. Present Situation:

The Department of Agriculture and Consumer Services maintains a registry of persons who require prior notification if pesticides are to be applied on property contiguous with or adjacent to their primary residence. An individual who wishes to be placed on the registry must first have an allopathic physician certify their pesticide sensitivity. In addition to the initial registration and \$50 fee, an annual updated registration and \$10 fee is required to remain on the registry each year. Currently, osteopathic physicians are not authorized to provide the certification needed to be placed on the registry.

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 all pesticides. This chapter prohibits a local government or political subdivision of the state to enact or enforce an ordinance that regulates pest control, with certain specified exceptions.

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. Termite treatment and damage costs \$500 million a year in Florida alone. They attack and damage any 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 only if they are constructed and maintained properly and a protective treatment is applied correctly.

Coptotermes formosanus, the Formosan termite, was introduced into the United States from east Asia in the 1940s. Since then it has spread through the Southeast, its range now extending from Texas to South Carolina. The Formosan termite is about the size of a grain of rice, but it is far more destructive than Florida's native termites. Each Formosan colony numbers in the millions, 10 times the size of a native termite colony, and can devour a pound of wood a day. First found in Florida 19 years ago in a Hallandale condominium, Formosans have moved into northern Miami-Dade County and southern Palm Beach County, as well as Orlando, Tampa, and Pensacola.¹

In 1988, the federal government banned chlordane, which was used to treat the soil prior to finishing the foundation as an effective 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. Houses and condominiums built since 1988 have had a high incidence of termiticide failures.

III. Effect of Proposed Changes:

Section 1. Amends s. 482.2267, F.S., to authorize licensed osteopathic physicians to provide the certification required to include a person on the Pesticide Notification Registry, which is maintained by the Department of Agriculture and Consumer Services.

Section 2. Amends s. 482.242, F.S., to provide the following additional exceptions to the state's preemption of the regulation of pest-control activities. Local governments or political subdivisions of the state may enact an ordinance that:

- Requires annual termite inspections for termite activity or damage, including Formosan termites, performed by a person licensed under chapters 482 or 487, F.S.;
- Requires pest control treatments of structures that have termite activity or damage performed by a person licensed under chapters 482 or 487, F.S.; and

¹ Florida Trend, October 1999.

- Requires property owners or other persons to obtain inspections or pest control treatments performed by a person licensed under chapters 482 or 487, F.S..

Any such ordinance requiring an annual inspection or pest control treatment must conform to current law.

Section 3. Provides an effective date of July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill allows local governments to require, by ordinance, termite inspections or treatment of structures where termites have been identified. Prices for inspection, treatment estimates, and conditions of warranties often vary considerably. If the local government requires inspections and treatment, property owners will incur costs related to these inspections and treatment.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

This bill allows local governments to require, by ordinance, termite inspections or treatment of structures where termites have been identified. Such treatments must be performed by persons licensed under chapters 482 and 487, F.S. Chapter 482, F.S., Florida's Structural Pest Control Act, regulates the pest control industry, which includes termite treatments. Chapter 487, F.S., the "Florida Pesticide Law," regulates the distribution, sale, and use of pesticides, which is primarily agricultural in nature. It may not be appropriate to authorize persons licensed under chapter 487, F.S., to perform termite treatment.

In addition, the provision requiring local ordinances to conform to current law only applies to “annual” inspections, not other inspections that may be required under the ordinance.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Comprehensive Planning, Local and Military Affairs:

Corrects a technical deficiency which incorrectly referred to chapter 487 which regulates the distribution, sale and use of pesticides.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
