

ASSEMBLY BILL NO. 35—COMMITTEE ON NATURAL
RESOURCES, AGRICULTURE, AND MINING

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED DECEMBER 14, 2010

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions governing the custom application
of pesticides. (BDR 49-453)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pesticides; making various changes to provisions relating to licenses to engage in pest control; increasing the amount of certain insurance required to obtain a license to engage in pest control; authorizing the Director of the State Department of Agriculture to take disciplinary action against a person licensed to engage in pest control in certain circumstances; revising requirements concerning having a primary principal at certain business locations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits a person from engaging in pest control or serving as an
2 agent, operator or pilot for that purpose without having a license issued by the
3 Director of the State Department of Agriculture. (NRS 555.280) Existing
4 regulations define the terms “primary principal” and “principal” for purposes of
5 regulations relating to the custom application of pesticides and provide for licensure
6 of principals. (NAC 555.2555, 555.256, 555.270, 555.397) **Sections 2 and 3** of this
7 bill define the terms “primary principal” and “principal” for purposes of the
8 provisions of chapter 555 of NRS that relate to the custom application of pesticides.
9 **Sections 6-10** of this bill add references to those terms for consistency within the
10 licensing provisions relating to engaging in the custom application of pesticides.
11 **Section 5** of this bill also revises the definition of “pest control” to clarify that the
12 term applies when a person publicly holds himself or herself out as being in the
13 business of exterminating, controlling or preventing pests. **Sections 7 and 8** of this



14 bill remove references to a “pilot” thereby removing the requirement for a pilot to
15 obtain a license to engage in pest control.

16 **Section 9** of this bill increases the amount of public liability and property
17 damage insurance that an applicant for a license to engage in pest control, other
18 than by aircraft, is required to obtain from not less than \$10,000 to not less than
19 \$50,000.

20 Under existing law, the Director is authorized to temporarily suspend a license
21 to engage in pest control pending investigation and to take disciplinary action
22 following a hearing when the Director makes certain findings concerning a
23 licensee. (NRS 555.350) **Section 10** of this bill adds authority to take such actions
24 if the Director finds that the licensee engaged in the business of pest control
25 without having a licensed agent, primary principal or principal in direct on-the-job
26 supervision, or if the Director finds that the licensee intentionally falsified certain
27 reports.

28 **Section 11** of this bill removes the requirement that a person who is licensed to
29 engage in pest control have a primary principal at each of the licensee’s business
30 locations in this State who is licensed in the appropriate category or categories of
31 pest control, and instead requires the licensee to have at least one primary principal
32 for the licensee’s entire business. (NRS 555.3507) **Section 11** also removes the
33 automatic suspension of a person’s license to engage in pest control for failing to
34 comply with the requirement of having a primary principal at each business
35 location for 30 consecutive days.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 555 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Primary principal” means a principal who is*
4 *designated by a pest control business as the person responsible for*
5 *the daily supervision of the category or categories of pest control*
6 *performed by the business.*

7 **Sec. 3.** *“Principal” means an owner, officer, partner,*
8 *member or technician of a pest control business who has qualified*
9 *by examination in one or more of the categories of pest control.*

10 **Sec. 4.** NRS 555.2605 is hereby amended to read as follows:
11 555.2605 As used in NRS 555.2605 to 555.460, inclusive, *and*
12 *sections 2 and 3 of this act*, unless the context otherwise requires,
13 the words and terms defined in NRS 555.261 to 555.2695, inclusive,
14 *and sections 2 and 3 of this act*, have the meanings ascribed to them
15 in those sections.

16 **Sec. 5.** NRS 555.2667 is hereby amended to read as follows:
17 555.2667 “Pest control” means :

18 1. *Publicly holding oneself out as being in the business of*
19 *[engaging] exterminating, controlling or preventing pests; or*

20 2. *Engaging* in, advertising or soliciting for:
21 ~~1-~~ (a) The use for hire of pesticides or mechanical devices for
22 the extermination, control or prevention of infestations of pests ~~1-~~



1 ~~—2.] ; or~~

2 (b) The inspection for hire of households or other structures and
3 the submission of reports of inspection, estimates or bids, written or
4 oral, for the inspection, extermination, control or prevention of
5 wood-destroying pests.

6 **Sec. 6.** NRS 555.277 is hereby amended to read as follows:

7 555.277 1. The provisions of NRS 555.2605 to 555.460,
8 inclusive, *and sections 2 and 3 of this act* relating to licenses and
9 requirements for their issuance, except a certificate or permit to use
10 a restricted-use pesticide, do not apply to any farmer-owner of
11 ground equipment applying pesticides for himself, herself or his or
12 her neighbors, if:

13 (a) The farmer-owner operates farm property and operates and
14 maintains equipment for applying pesticides primarily for his or her
15 own use.

16 (b) The farmer-owner is not regularly engaged in the business of
17 applying pesticides *or performing pest control* for hire as a *primary*
18 principal, *principal, operator* or regular occupation, and the farmer-
19 owner does not publicly hold himself or herself out as *being in the*
20 *business of pest control or as* a pesticide applicator.

21 (c) The farmer-owner operates his or her equipment for applying
22 pesticides only in the vicinity of the farmer-owner's own property
23 and for the accommodation of the farmer-owner's neighbors for
24 agricultural purposes only.

25 2. The provisions of NRS 555.2605 to 555.460, inclusive, *and*
26 *sections 2 and 3 of this act*, except those provisions relating to a
27 certificate or permit to use a restricted-use pesticide, do not apply to
28 any person using hand-powered equipment, devices or contrivances
29 to apply pesticides to ~~[lawns or to ornamental shrubs and trees]~~ *any*
30 *landscaped area* as an incidental part of the person's business of
31 taking care of ~~[lawns and yards]~~ *landscaped areas* for remuneration,
32 if ~~[that]~~ :

33 (a) *That* person does not *advertise or solicit the provision of*
34 *pest control or* publicly hold himself or herself out as being in the
35 business of applying pesticides ; and ~~[the]~~

36 (b) *The* cost of applying the pesticides does not exceed 20
37 percent of the total remuneration received.

38 **Sec. 7.** NRS 555.280 is hereby amended to read as follows:

39 555.280 A person shall not engage in pest control or serve as
40 an agent, operator, *primary principal* or ~~[pilot]~~ *principal* for that
41 purpose within this State at any time without a license issued by the
42 Director.



1 **Sec. 8.** NRS 555.310 is hereby amended to read as follows:

2 555.310 1. The Director shall collect from each person
3 applying for the examination or reexamination a testing fee
4 established by regulation of the State Board of Agriculture.

5 2. Upon the successful completion of the testing, the Director
6 shall, before the license is issued, collect from each person applying
7 for a license for pest control an annual fee established by regulation
8 of the State Board of Agriculture. Any company or person
9 employing ~~[operators, pilots or agents]~~ **an agent, operator, primary**
10 **principal or principal** shall pay to the Director a fee established by
11 regulation of the Board for each ~~[operator, pilot or]~~ agent, **operator,**
12 **primary principal or principal** licensed.

13 **Sec. 9.** NRS 555.330 is hereby amended to read as follows:

14 555.330 1. The Director shall require from each applicant for
15 a pest control license proof of public liability and property damage
16 insurance in an amount of:

17 (a) Except as otherwise provided in paragraph (b), not less than
18 ~~[\$10,000.]~~ **\$50,000.**

19 (b) If the license would authorize the application of pesticides
20 by aircraft:

21 (1) Not less than \$100,000 for bodily injury to or death of
22 one person in any one accident;

23 (2) Subject to the limit for one person, not less than \$300,000
24 for bodily injury to or death of two or more persons in any one
25 accident; and

26 (3) Not less than \$100,000 for each occurrence of damage to
27 property in any one accident.

28 ➔ The Director may accept a liability insurance policy or surety
29 bond in the proper amount.

30 2. The Director may require drift insurance for the use of
31 pesticides or other materials declared hazardous or dangerous to
32 humans, livestock, wildlife, crops or plantlife.

33 3. Any person injured by the breach of any such obligation is
34 entitled to sue in his or her own name in any court of competent
35 jurisdiction to recover the damages the person sustained by that
36 breach, if each claim is made within 6 months after the alleged
37 injury.

38 4. The Director on his or her own motion may, or upon receipt
39 of a verified complaint of an interested person shall, investigate, as
40 he or she deems necessary, any loss or damage resulting from the
41 application of any pesticide by a licensed ~~[pest control]~~ operator ~~[.]~~,
42 **primary principal or principal**. A verified complaint of loss or
43 damage must be filed within 60 days after the time that the
44 occurrence of the loss or damage becomes known except that, if a
45 growing crop is alleged to have been damaged, the verified



1 complaint must be filed before 50 percent of the crop has been
2 harvested. A report of investigations resulting from a verified
3 complaint must be furnished to the person who filed the complaint.

4 **Sec. 10.** NRS 555.350 is hereby amended to read as follows:

5 555.350 1. The Director may suspend, pending inquiry, for
6 not longer than 10 days, and, after opportunity for a hearing, may
7 revoke, suspend or modify any license issued under NRS 555.2605
8 to 555.460, inclusive, *and sections 2 and 3 of this act*, if the
9 Director finds that:

10 (a) The licensee is no longer qualified;

11 (b) The licensee has engaged in fraudulent business practices in
12 pest control;

13 (c) The licensee has made false or fraudulent claims through any
14 media by misrepresenting the effect of materials or methods to be
15 used;

16 (d) The licensee has applied known ineffective or improper
17 materials;

18 (e) The licensee operated faulty or unsafe equipment;

19 (f) The licensee has made any application in a faulty, careless or
20 negligent manner;

21 (g) The licensee has violated any of the provisions of NRS
22 555.2605 to 555.460, inclusive, *and sections 2 and 3 of this act* or
23 regulations adopted pursuant thereto;

24 (h) The licensee engaged in the business of pest control without
25 having a licensed ~~applicator or~~ *agent*, operator, *primary principal*
26 *or principal* in direct on-the-job supervision;

27 (i) The licensee aided or abetted a licensed or an unlicensed
28 person to evade the provisions of NRS 555.2605 to 555.460,
29 inclusive, *and sections 2 and 3 of this act*, combined or conspired
30 with such a licensee or an unlicensed person to evade the provisions,
31 or allowed one's license to be used by an unlicensed person;

32 (j) The licensee was intentionally guilty of fraud or deception in
33 the procurement of his or her license;

34 (k) The licensee was intentionally guilty of fraud, *falsification*
35 or deception in the issuance of an inspection report on wood-
36 destroying pests or other report *or record* required by regulation; or

37 (l) The licensee has been convicted of, or entered a plea of
38 *guilty, guilty but mentally ill or* nolo contendere to, a felony or any
39 crime involving moral turpitude in any court of competent
40 jurisdiction in the United States or any other country.

41 2. A license is suspended automatically, without action of the
42 Director, if the proof of public liability and property damage or drift
43 insurance filed pursuant to NRS 555.330 is cancelled, and the
44 license remains suspended until the insurance is reestablished.



1 3. A licensee against whom the Director initiates disciplinary
2 action to revoke, suspend or modify the license of the licensee
3 pursuant to this section shall, within 30 days after receiving written
4 notice of the disciplinary action from the Director, submit to the
5 Director a complete set of the licensee's fingerprints and written
6 permission authorizing the Director to forward the fingerprints to
7 the Central Repository for Nevada Records of Criminal History for
8 submission to the Federal Bureau of Investigation for its report.

9 4. A willful failure of a licensee to comply with the
10 requirements of subsection 3 constitutes an additional ground for the
11 revocation, suspension or modification of the license of the licensee
12 pursuant to this section.

13 5. The Director has additional grounds to revoke, suspend or
14 modify a license pursuant to this section if the report from the
15 Federal Bureau of Investigation indicates that the licensee has been
16 convicted of a felony or crime specified in paragraph (1) of
17 subsection 1.

18 **Sec. 11.** NRS 555.3507 is hereby amended to read as follows:

19 555.3507 ~~[1.]~~ A person licensed to engage in pest control
20 shall ensure that ~~[each of]~~ the licensee's business ~~[locations in this~~
21 ~~State]~~ has ~~[a]~~ *at least one* primary principal who is licensed in the
22 appropriate category or categories of pest control.

23 ~~[2.— If a licensee ceases to have a primary principal at each of~~
24 ~~the licensee's business locations in this State for 30 consecutive~~
25 ~~calendar days, his or her license for pest control is automatically~~
26 ~~suspended, without action of the Director, and remains suspended~~
27 ~~until such time as the licensee obtains a primary principal for each~~
28 ~~business location.~~

29 ~~—3.— As used in this section, "primary principal" means an owner,~~
30 ~~officer, partner, member or technician of a pest control business~~
31 ~~who has qualified by examination in one or more of the categories~~
32 ~~of pest control and who has been designated by the pest control~~
33 ~~business as the person responsible for the daily supervision of the~~
34 ~~category or categories of pest control performed by a business~~
35 ~~location of the pest control business within this State.]~~

36 **Sec. 12.** NRS 555.460 is hereby amended to read as follows:

37 555.460 Any person violating the provisions of NRS 555.2605
38 to 555.420, inclusive, *and sections 2 and 3 of this act*, or the
39 regulations adopted pursuant thereto, is guilty of a misdemeanor
40 and, in addition to any criminal penalty, shall pay to the Department
41 an administrative fine of not more than \$5,000 per violation. If an
42 administrative fine is imposed pursuant to this section, the costs of
43 the proceeding, including investigative costs and attorney's fees,
44 may be recovered by the Department.



1 **Sec. 13.** NRS 555.470 is hereby amended to read as follows:
2 555.470 1. The Director shall adopt regulations specifying a
3 schedule of fines which may be imposed, upon notice and a hearing,
4 for each violation of the provisions of NRS 555.2605 to 555.460,
5 inclusive **[]**, *and sections 2 and 3 of this act.* The maximum fine
6 that may be imposed by the Director for each violation must not
7 exceed \$5,000 per day. All fines collected by the Director pursuant
8 to this subsection must be remitted to the county treasurer of the
9 county in which the violation occurred for credit to the county
10 school district fund.
11 2. The Director may:
12 (a) In addition to imposing a fine pursuant to subsection 1, issue
13 an order requiring a violator to take appropriate action to correct the
14 violation; or
15 (b) Request the district attorney of the appropriate county to
16 investigate or file a criminal complaint against any person that the
17 State Board of Agriculture suspects may have violated any provision
18 of NRS 555.2605 to 555.460, inclusive **[]**, *and sections 2 and 3 of*
19 *this act.*
20 **Sec. 14.** This act becomes effective on July 1, 2011.



