

AN ACT

relating to the licensing and regulation of structural pest control by the Department of Agriculture and the abolition of the Texas Structural Pest Control Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CHANGES TO THE TEXAS STRUCTURAL PEST CONTROL ACT

SECTION 1.01. Section 1951.002, Occupations Code, is amended by amending Subdivision (14) and adding Subdivisions (5-a), (5-b), and (6-a) to read as follows:

(5-a) "Commissioner" means the commissioner of agriculture.

(5-b) "Committee" means the structural pest control advisory committee.

(6-a) "Department" means the Department of Agriculture.

(14) "State-limited-use pesticide" means a pesticide classified for restricted or limited use by the commissioner [~~of agriculture~~].

SECTION 1.02. Subchapter A, Chapter 1951, Occupations Code, is amended by adding Section 1951.0021 to read as follows:

Sec. 1951.0021. STRUCTURAL PEST CONTROL SERVICE. The Structural Pest Control Service is a service of the department responsible for the regulation and licensing of persons engaged in the business of structural pest control. The service is

1 established to provide exceptional customer service to the public
2 and the industry, enhance the educational and professional
3 standards of license holders, and ensure the health, safety, and
4 welfare of the public.

5 SECTION 1.03. Section 1951.053, Occupations Code, is
6 amended to read as follows:

7 Sec. 1951.053. PERSON PERFORMING PEST CONTROL WORK
8 OTHERWISE REGULATED BY DEPARTMENT [~~OF AGRICULTURE~~]. (a) Except as
9 provided by Sections 1951.212 and 1951.457(c), this chapter does
10 not apply to:

11 (1) a person who performs pest control work on growing
12 plants, trees, shrubs, grass, or other horticultural plants if the
13 person:

14 (A) holds a florist or nursery registration
15 certificate from the department [~~Department of Agriculture~~] under
16 Section 71.043, Agriculture Code, other than a registration
17 certificate that permits the sale, lease, or distribution of
18 nursery products or floral items only at a temporary market; and

19 (B) holds a commercial or noncommercial
20 applicator license from the department and issued under Chapter 76,
21 Agriculture Code, [~~Department of Agriculture~~] that covers the pest
22 control work; or

23 (2) a person who performs pest control work on growing
24 plants, trees, shrubs, grass, or other horticultural plants or
25 rights-of-way if the person:

26 (A) is employed by a political subdivision or a
27 cemetery;

1 (B) is engaged in pest control work or vegetation
2 management for the political subdivision or cemetery;

3 (C) holds a commercial or noncommercial
4 applicator license from the department and issued under Chapter 76,
5 Agriculture Code, [Department of Agriculture] that covers pest
6 control work or is under the direct supervision of a person who
7 holds a commercial or noncommercial applicator license from the
8 department and issued under Chapter 76, Agriculture Code,
9 [Department of Agriculture] that covers pest control work; and

10 (D) complies with annual continuing education
11 required by the department [Department of Agriculture].

12 (b) A person described by Subsection (a) is not considered
13 to be engaged in the business of structural pest control.

14 (c) Neither this section nor any other law shall prohibit a
15 political subdivision from reducing the number of hours of training
16 or other requirements for an employee conducting larval mosquito
17 control on property owned or controlled by the political
18 subdivision using biological pesticides approved for general use by
19 the ~~[Texas]~~ Department of State Health Services, provided the
20 employee is given instructions adequate to ensure the safe and
21 effective use of such pesticides.

22 SECTION 1.04. Section 1951.055(a), Occupations Code, is
23 amended to read as follows:

24 (a) Except as provided by Sections 1951.212 and
25 1951.457(c), this chapter does not apply to a person who uses pest
26 control chemicals that are for household use and are available for
27 purchase in retail food stores, such as aerosol bombs and spray

1 cans, if the insecticide is used in accordance with the label
2 directions on the insecticide or with department [~~board~~] rules or
3 guidelines or as provided by Section 1951.303 and is:

4 (1) used by the owner of a building or the owner's
5 employee or agent in an area occupied by the owner in a residential
6 building; or

7 (2) used in a place that is vacant, unused, and
8 unoccupied.

9 SECTION 1.05. Section 1951.056(a), Occupations Code, is
10 amended to read as follows:

11 (a) Except as provided by Sections 1951.212 and
12 1951.457(c), this chapter does not apply to a person acting as a
13 beekeeper, as defined by Section 131.001, Agriculture Code, who:

14 (1) is registered with the [~~board and with the~~] chief
15 apiary inspector as provided by Subchapter C, Chapter 131,
16 Agriculture Code;

17 (2) does not use pesticides or electrical devices
18 other than conventional bee smokers or equipment as defined by
19 Section 131.001, Agriculture Code; and

20 (3) collects, removes, or destroys honey bees [~~not~~
21 ~~attached to a dwelling or structure occupied by the public~~].

22 SECTION 1.06. The heading to Subchapter C, Chapter 1951,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER C. [~~TEXAS~~] STRUCTURAL PEST CONTROL ADVISORY COMMITTEE
25 [BOARD]

26 SECTION 1.07. Section 1951.101, Occupations Code, is
27 amended to read as follows:

1 Sec. 1951.101. COMMITTEE [~~BOARD~~] MEMBERSHIP. (a) The
2 committee [~~Texas Structural Pest Control Board~~] consists of nine
3 members appointed by the commissioner as follows:

4 (1) two members who are experts in structural pest
5 control application;

6 (2) three members who represent the public;

7 (3) one member from an institution of higher education
8 who is knowledgeable in the science of pests and pest control;

9 (4) one member who represents the interests of
10 structural pest control operators and who is appointed based on
11 recommendations provided by a trade association of operators;

12 (5) one member who represents the interests of
13 consumers and who is appointed based on recommendations provided by
14 consumer advocacy groups or associations; and

15 (6) the commissioner of state health services or the
16 commissioner's designee.

17 (b) Members of the committee serve staggered four-year
18 terms. The terms of four or five members, as appropriate, expire on
19 February 1 of each odd-numbered year [~~Six members are appointed by~~
20 ~~the governor with the advice and consent of the senate as follows:~~

21 ~~[(1) three members who:~~

22 ~~[(A) have been engaged in the business of~~
23 ~~structural pest control for at least the five years preceding the~~
24 ~~date of appointment; and~~

25 ~~[(B) are not representatives of the same business~~
26 ~~entity; and~~

27 ~~[(2) three public members].~~

1 (c) Service on the committee by a state officer or employee
2 is an additional duty of the member's office or employment [~~The~~
3 ~~commissioner of agriculture, the commissioner of public health, and~~
4 ~~the chair of the Department of Entomology at Texas A&M University or~~
5 ~~their designated representatives are also members of the board~~].

6 (d) Appointments to the committee [~~board~~] shall be made
7 without regard to the race, color, disability, sex, religion, age,
8 or national origin of the appointee.

9 SECTION 1.08. Section 1951.102, Occupations Code, is
10 amended to read as follows:

11 Sec. 1951.102. ELIGIBILITY OF PUBLIC MEMBERS. A person is
12 not eligible for appointment as a public member of the committee
13 [~~board~~] if:

14 (1) the person is licensed under this chapter; or

15 (2) the person or the person's spouse:

16 (A) is registered, certified, or licensed by an
17 occupational regulatory agency in the field of pest control;

18 (B) is employed by or participates in the
19 management of a business entity or other organization regulated by
20 the department [~~board~~] or receiving funds from the department
21 [~~board~~];

22 (C) owns or controls, directly or indirectly,
23 more than a 10 percent interest in a business entity or other
24 organization regulated by the department [~~board~~] or receiving funds
25 from the department [~~board~~]; or

26 (D) uses or receives a substantial amount of
27 tangible goods, services, or funds from the department [~~board~~],

1 other than compensation or reimbursement authorized by law for
2 committee [~~board~~] membership, attendance, or expenses.

3 SECTION 1.09. Section 1951.103, Occupations Code, is
4 amended to read as follows:

5 Sec. 1951.103. MEMBERSHIP [~~AND EMPLOYEE~~] RESTRICTIONS. (a)
6 In this section, "Texas trade association" means a [~~nonprofit,~~
7 cooperative~~]~~ and voluntarily joined statewide association of
8 business or professional competitors in this state designed to
9 assist its members and its industry or profession in dealing with
10 mutual business or professional problems and in promoting their
11 common interest.

12 (b) A person may not be a member of the committee if:

13 (1) the person is an officer, employee, or paid
14 consultant of a Texas trade association in the field of pest control
15 except as provided by Section 1951.101(a)(4); or

16 (2) the person's spouse is an officer, manager, or paid
17 consultant of a Texas trade association in the field of pest control
18 [~~An officer, employee, or paid consultant of a Texas trade~~
19 ~~association in the field of pest control may not be a member of the~~
20 ~~board and may not be an employee of the board who is exempt from the~~
21 ~~state's position classification plan or is compensated at or above~~
22 ~~the amount prescribed by the General Appropriations Act for step 1,~~
23 ~~salary group A17, of the position classification salary schedule].~~

24 (c) A person may not be a member of the committee if the
25 person is required to register as a lobbyist under Chapter 305,
26 Government Code, because of the person's activities for
27 compensation on behalf of a profession related to the operation of

1 the department [~~who is the spouse of an officer, manager, or paid~~
2 ~~consultant of a Texas trade association in the field of pest control~~
3 ~~may not be a member of the board and may not be an employee of the~~
4 ~~board who is exempt from the state's position classification plan~~
5 ~~or is compensated at or above the amount prescribed by the General~~
6 ~~Appropriations Act for step 1, salary group A17, of the position~~
7 ~~classification salary schedule].~~

8 [~~(d) A person may not serve as a member of the board or act~~
9 ~~as the general counsel to the board if the person is required to~~
10 ~~register as a lobbyist under Chapter 305, Government Code, because~~
11 ~~of the person's activities for compensation on behalf of a~~
12 ~~profession related to the operation of the board.].~~

13 SECTION 1.10. Section 1951.104, Occupations Code, is
14 amended to read as follows:

15 Sec. 1951.104. DUTIES OF COMMITTEE [~~TERMS~~]. The committee
16 shall:

17 (1) gather and provide information relating to the
18 practice of structural pest control at the request of the
19 department or the commissioner; and

20 (2) advise the department and the commissioner on:

21 (A) the education and curricula requirements for
22 applicants;

23 (B) the content of examinations under this
24 chapter;

25 (C) proposed rules and standards on technical
26 issues related to structural pest control and rules related to
27 enforcement;

1 (D) standards and criteria for the issuance of
2 licenses under this chapter;

3 (E) fees for license applications and
4 examinations under this chapter; and

5 (F) other issues affecting the practice of
6 structural pest control [~~Appointed members of the board serve~~
7 ~~staggered six-year terms, with the terms of one business and one~~
8 ~~public member expiring February 1 of each odd-numbered year~~].

9 SECTION 1.11. Section 1951.105, Occupations Code, is
10 amended to read as follows:

11 Sec. 1951.105. RULES GOVERNING COMMITTEE [~~PRESIDING~~
12 ~~OFFICER~~]. The department shall adopt rules for the operation of the
13 committee, including rules governing:

14 (1) the purpose, role, responsibility, and goals of
15 the committee;

16 (2) the quorum requirements for the committee;

17 (3) the qualifications required for members of the
18 committee, which may include experience and geographic
19 representation requirements;

20 (4) the appointment process for the committee;

21 (5) the members' terms;

22 (6) the training requirements;

23 (7) a process to regularly evaluate the effectiveness
24 of the committee; and

25 (8) a requirement that the committee comply with
26 Chapter 551, Government Code [~~The governor shall designate a member~~
27 ~~of the board as presiding officer. The presiding officer serves in~~

1 ~~that capacity at the pleasure of the governor].~~

2 SECTION 1.12. The heading to Section 1951.106, Occupations
3 Code, is amended to read as follows:

4 Sec. 1951.106. APPLICABILITY OF OTHER LAW TO COMMITTEE
5 ~~[GROUNDS FOR REMOVAL].~~

6 SECTION 1.13. Section 1951.106(a), Occupations Code, is
7 amended to read as follows:

8 (a) Section 2110.008, Government Code, does not apply to the
9 committee ~~[It is a ground for removal from the board that a member:~~

10 ~~(1) does not have at the time of appointment the~~
11 ~~qualifications required by Section 1951.101 or 1951.102, as~~
12 ~~applicable,~~

13 ~~(2) does not maintain during service on the board the~~
14 ~~qualifications required by Section 1951.101 or 1951.102, as~~
15 ~~applicable,~~

16 ~~(3) violates a prohibition established by Section~~
17 ~~1951.103,~~

18 ~~(4) cannot, because of illness or disability,~~
19 ~~discharge the member's duties for a substantial part of the member's~~
20 ~~term, or~~

21 ~~(5) is absent from more than half of the regularly~~
22 ~~scheduled meetings of the board that the member is eligible to~~
23 ~~attend during a calendar year unless that absence is excused by a~~
24 ~~majority vote of the board].~~

25 SECTION 1.14. The heading to Subchapter E, Chapter 1951,
26 Occupations Code, is amended to read as follows:

1 SUBCHAPTER E. [~~BOARD~~] POWERS AND DUTIES OF DEPARTMENT RELATING TO
2 STRUCTURAL PEST CONTROL

3 SECTION 1.15. Section 1951.201, Occupations Code, is
4 amended to read as follows:

5 Sec. 1951.201. SOLE LICENSING AUTHORITY; FEES. (a) The
6 department [~~board~~] is the sole authority in this state for
7 licensing persons engaged in the business of structural pest
8 control.

9 (b) The department, with the advice of the committee, shall
10 establish fees under this chapter in amounts reasonable and
11 necessary to cover the costs of administering the department's
12 programs and activities under this chapter.

13 SECTION 1.16. Section 1951.202, Occupations Code, is
14 amended to read as follows:

15 Sec. 1951.202. BYLAWS. The department [~~board~~] shall adopt
16 bylaws governing the conduct of the department's [~~board's~~] affairs
17 under this chapter.

18 SECTION 1.17. Section 1951.203, Occupations Code, is
19 amended to read as follows:

20 Sec. 1951.203. STANDARDS AND CRITERIA FOR LICENSES. The
21 department, with the advice of the committee, [~~board~~] shall develop
22 standards and criteria for issuing:

23 (1) a structural pest control business license to a
24 person engaged in the business of structural pest control;

25 (2) a certified commercial applicator's license to an
26 individual engaged in the business of structural pest control;

27 (3) a certified noncommercial applicator's license to

1 an individual; and

2 (4) a technician license to an individual.

3 SECTION 1.18. Sections 1951.204(a), (b), and (c),
4 Occupations Code, are amended to read as follows:

5 (a) As part of an investigation under this chapter, the
6 commissioner [~~The board~~] may request and, if necessary, compel by
7 subpoena:

8 (1) the attendance of witnesses for examination under
9 oath; and

10 (2) the production for inspection and copying of
11 records, documents, and other evidence relevant to the
12 investigation of an alleged violation of this chapter.

13 (b) The commissioner [~~board~~], acting through the attorney
14 general, may bring an action to enforce a subpoena issued under
15 Subsection (a) against a person who fails to comply with the
16 subpoena.

17 (c) Venue for an action brought under Subsection (b) is in a
18 district court in:

19 (1) Travis County; or

20 (2) the county in which the alleged violation occurred
21 [~~board may hold a hearing~~].

22 SECTION 1.19. Section 1951.205, Occupations Code, is
23 amended to read as follows:

24 Sec. 1951.205. ENVIRONMENTAL RULES. (a) The department,
25 with the advice of the committee, [~~board~~] shall adopt rules
26 governing the methods and practices of structural pest control that
27 the department [~~board~~] determines are necessary to protect the

1 public's health and welfare and prevent adverse effects on human
2 life and the environment.

3 (b) A rule relating to the use of economic poisons must
4 comply with applicable standards of the federal government and the
5 commissioner [~~of agriculture~~] governing the use of such substances.

6 SECTION 1.20. Section 1951.206, Occupations Code, is
7 amended to read as follows:

8 Sec. 1951.206. RULES RESTRICTING ADVERTISING OR
9 COMPETITIVE BIDDING. (a) Except as provided by Subsection (b), the
10 department [~~board~~] may not adopt a rule restricting advertising or
11 competitive bidding by a person regulated by the department under
12 this chapter [~~board~~].

13 (b) The department [~~board~~] may adopt rules restricting
14 advertising or competitive bidding to prohibit false, misleading,
15 or deceptive practices by a person regulated by the department
16 under this chapter [~~board~~]. A rule adopted under this subsection
17 may not:

- 18 (1) restrict the use of any medium for advertising;
19 (2) restrict a person's personal appearance or use of a
20 person's voice in an advertisement;
21 (3) relate to the size or duration of an advertisement
22 by a person; or
23 (4) restrict a person's advertisement under a trade
24 name.

25 SECTION 1.21. Section 1951.207, Occupations Code, is
26 amended to read as follows:

27 Sec. 1951.207. INSPECTION OF LICENSE HOLDERS. (a) The

1 department [~~board~~] by rule shall adopt a policy that:

2 (1) requires a business holding a structural pest
3 control business license to be inspected by a field inspector at
4 least once:

5 (A) in the business's first year of operation;

6 and

7 (B) every four [~~two~~] years after the first year
8 of operation;

9 (2) provides for additional inspections based on a
10 schedule of risk-based inspections using the following criteria:

11 (A) the type and nature of the business;

12 (B) whether there has been a prior violation by
13 the business;

14 (C) the inspection history of the business;

15 (D) any history of complaints involving the
16 business; and

17 (E) any other factor determined by the department
18 by rule [~~initiating inspections more frequently than once every two~~
19 ~~years for a business or an applicator that has violated this chapter~~
20 ~~or a rule adopted under this chapter~~]; and

21 (3) provides that the department [~~executive director~~]
22 may waive the inspection requirement on a case-by-case basis if an
23 emergency arises or to accommodate complaint investigation
24 schedules.

25 (b) The department [~~board~~] by rule shall adopt a policy and
26 guidelines for conducting an investigation under this chapter,
27 including:

1 (1) procedures for investigating a complaint
2 concerning misuse of pesticides, including contamination by
3 pesticides and human exposure to pesticides;

4 (2) the circumstances in which a case should be
5 referred to the:

6 (A) [~~Department of Agriculture,~~
7 [~~(B) Texas~~] Department of State Health Services;
8 (B) [~~(C)~~] Texas Commission on Environmental
9 Quality [~~Natural Resource Conservation Commission~~]; or

10 (C) [~~(D)~~] United States Environmental Protection
11 Agency;

12 (3) recommendations to consumers and applicators
13 regarding cleanup after a spill or misapplication; and

14 (4) procedures for residue sampling, including the
15 circumstances in which to take a residue sample and the time in
16 which the sample should be taken.

17 SECTION 1.22. Section 1951.208, Occupations Code, is
18 amended to read as follows:

19 Sec. 1951.208. MISAPPLICATION OF PESTICIDES. (a) If an
20 investigation shows that a misapplication of pesticides has
21 occurred on the premises of a consumer, the department [~~board~~]
22 shall immediately notify the consumer and the applicator of the
23 misapplication.

24 (b) On a finding of misapplication, the department [~~board~~]
25 shall keep records of health injuries and property damages
26 resulting from the misapplication reported to the department
27 [~~board~~] by a:

- 1 (1) certified applicator;
- 2 (2) physician;
- 3 (3) person holding a structural pest control business
- 4 license;
- 5 (4) technician;
- 6 (5) consumer; or
- 7 (6) state agency.

8 SECTION 1.23. Section 1951.209, Occupations Code, is
9 amended to read as follows:

10 Sec. 1951.209. AVAILABILITY OF CERTAIN INFORMATION. The
11 department [~~board~~] may make available to the [~~Texas~~] Department of
12 State Health Services under the occupational condition reporting
13 program established under Chapter 84, Health and Safety Code, any
14 information the department [~~board~~] receives concerning an exposure
15 to a pesticide caused by a person licensed under this chapter that
16 results in a medically verifiable illness. The department [~~board~~]
17 and the executive commissioner of the Health and Human Services
18 Commission [~~Texas Board of Health~~] shall adopt joint rules for
19 making that information available to the [~~Texas~~] Department of
20 State Health Services. The rules must require the department
21 [~~board~~] to make that information available to an institution of
22 higher education that conducts research in urban entomology,
23 epidemiology, or other areas related to structural pest control.

24 SECTION 1.24. Section 1951.210, Occupations Code, is
25 amended to read as follows:

26 Sec. 1951.210. PRETREATMENT INSPECTION SERVICE; FEES;
27 LIABILITY. (a) The department [~~board~~] may provide a pretreatment

1 inspection service to consumers. A pretreatment inspection is
2 limited to a determination of whether there is an infestation of
3 pests on the premises inspected.

4 (b) On the request of a consumer, the department [~~board~~] may
5 make available an inspector employed by the department [~~board~~] to
6 inspect the premises of the consumer if the consumer has obtained,
7 from at least two pest control companies:

8 (1) a determination that there is an infestation of
9 pests on the premises; and

10 (2) an estimate of the cost of the treatment.

11 (c) The department [~~board~~] shall charge a fee for a
12 pretreatment inspection in an amount sufficient to pay the cost of
13 providing the service.

14 (d) The department [~~board~~] is not liable for any damages
15 that may arise as a result of an inspection made under this section
16 that is subsequently found to be incorrect.

17 SECTION 1.25. Section 1951.211, Occupations Code, is
18 amended to read as follows:

19 Sec. 1951.211. CONSULTATION WITH INTEGRATED PEST
20 MANAGEMENT TECHNIQUES EXPERT. The department [~~board~~] may contract
21 with [~~the Department of Agriculture or~~] an institution of higher
22 education for the services of an expert in integrated pest
23 management to consult with the department [~~board~~], department [~~the~~
24 ~~board's~~] staff, license holders, and the public regarding
25 integrated pest management techniques.

26 SECTION 1.26. Section 1951.212, Occupations Code, is
27 amended to read as follows:

1 Sec. 1951.212. INTEGRATED PEST MANAGEMENT PROGRAMS FOR
2 SCHOOL DISTRICTS. (a) The department [~~board~~] shall establish
3 standards for an integrated pest management program for the use of
4 pesticides, herbicides, and other chemical agents to control pests,
5 rodents, insects, and weeds at the school buildings and other
6 facilities of school districts.

7 (b) The department [~~board~~] shall use an existing advisory
8 committee or create a new advisory committee to assist the
9 department [~~board~~] in developing the standards for the integrated
10 pest management program. In developing the standards, the advisory
11 committee shall consult with a person knowledgeable in the area of
12 integrated pest management in schools.

13 (c) The department [~~board~~] shall include in standards
14 adopted under this section[+]

15 [~~(1)~~] a requirement to use the least toxic methods
16 available to control pests, rodents, insects, and weeds[~~, and~~

17 [~~(2) a list of products that a school district is~~
18 ~~allowed to use in its applications~~].

19 (d) The department by rule shall establish categories of
20 pesticides that a school district is allowed to apply. For each
21 category, the department shall specify:

22 (1) the minimum distance a school district must
23 maintain between an area where pesticides are being applied and an
24 area where students are present at the time of application;

25 (2) the minimum amount of time a school district is
26 required to wait before allowing students to enter an indoor or
27 outdoor area in a school building or on school grounds for normal

1 academic instruction or organized extracurricular activities after
2 pesticides have been applied;

3 (3) the requirements for posting notice of the indoor
4 and outdoor use of pesticides;

5 (4) the requirements for obtaining approval before
6 applying the pesticide; and

7 (5) the requirements for maintaining records of the
8 application of pesticides [~~board shall require that a pesticide may~~
9 ~~be applied to a school building or on school grounds only when~~
10 ~~students are not expected to be present for normal academic~~
11 ~~instruction or organized extracurricular activities for at least 12~~
12 ~~hours after the application].~~

13 (e) Each [A] school district shall:

14 (1) adopt an integrated pest management program that
15 incorporates the standards established by the department [~~board~~]
16 under this section;

17 (2) designate an integrated pest management
18 coordinator for the district; and

19 (3) report to the department not later than the 90th
20 day after the date the district designates or replaces an
21 integrated pest management coordinator the name, address,
22 telephone number, and e-mail address of the district's current
23 coordinator.

24 (f) Each person who is designated as the integrated pest
25 management coordinator for a school district shall successfully
26 complete six hours of continuing education in integrated pest
27 management every three years.

1 (g) The department shall inspect each school district at
2 least once every five years for compliance with this section and may
3 conduct additional inspections based on a schedule of risk-based
4 inspections using the following criteria:

5 (1) whether there has been a prior violation by the
6 school district;

7 (2) the inspection history of the school district;

8 (3) any history of complaints involving the school
9 district; and

10 (4) any other factor determined by the department by
11 rule.

12 SECTION 1.27. Section 1951.251, Occupations Code, is
13 amended to read as follows:

14 Sec. 1951.251. PUBLIC INTEREST INFORMATION. (a) The
15 department, with the advice of the committee, [board] shall prepare
16 information of public interest describing the functions of the
17 department under this chapter [board] and the procedures by which
18 complaints are filed with and resolved by the department under this
19 chapter [board].

20 (b) The department [board] shall make the information
21 available to the public and appropriate state agencies.

22 SECTION 1.28. Section 1951.252, Occupations Code, is
23 amended to read as follows:

24 Sec. 1951.252. COMPLAINTS. (a) The department [board] by
25 rule shall establish methods by which consumers and service
26 recipients are notified of the name, mailing address, and telephone
27 number of the department [board] for the purpose of directing

1 complaints to the department under this chapter [~~board~~]. The
2 department [~~board~~] may provide for that notice:

3 (1) on each license form, application, or written
4 contract for services of a person regulated under this chapter;

5 (2) on a sign prominently displayed in the place of
6 business of each person regulated under this chapter; or

7 (3) in a bill for services provided by a person
8 regulated under this chapter.

9 (b) The department [~~board~~] shall keep an information file
10 about each complaint filed with the department under this chapter
11 [~~board~~] that the department [~~board~~] has authority to resolve.

12 (c) If a written complaint is filed with the department
13 under this chapter [~~board~~] that the department [~~board~~] has
14 authority to resolve, the department [~~board~~], at least quarterly
15 and until final disposition of the complaint, shall notify the
16 parties to the complaint of the status of the complaint unless the
17 notice would jeopardize an undercover investigation.

18 (d) The department shall provide to a license holder against
19 whom a complaint has been filed under this chapter:

20 (1) the allegations made against the license holder in
21 the complaint; and

22 (2) on the license holder's request, any information
23 obtained by the department in its investigation of the complaint.

24 (e) The department shall provide the information required
25 under Subsection (d) in a timely manner to allow the license holder
26 time to respond to the complaint.

27 (f) The commissioner may allow an authorized employee of the

1 department to dismiss a complaint if an investigation demonstrates
2 that:

- 3 (1) a violation did not occur; or
4 (2) the subject of the complaint is outside the
5 department's jurisdiction under this chapter.

6 (g) An employee who dismisses a complaint under Subsection
7 (f) shall report the dismissal to the commissioner. The report must
8 include a sufficient explanation of the reason the complaint was
9 dismissed.

10 SECTION 1.29. Section 1951.253, Occupations Code, is
11 amended to read as follows:

12 Sec. 1951.253. PUBLIC PARTICIPATION. (a) The department
13 [~~board~~] shall develop and implement policies that provide the
14 public with a reasonable opportunity to appear before the committee
15 [~~board~~] and to speak on any issue for which the committee has a duty
16 under this chapter to advise the department [~~under the board's~~
17 ~~jurisdiction~~].

18 (b) The department [~~board~~] shall prepare and maintain a
19 written plan that describes how a person who does not speak English
20 or who has a physical, mental, or developmental disability can be
21 provided reasonable access to the department's [~~board's~~] programs
22 under this chapter.

23 SECTION 1.30. Section 1951.254, Occupations Code, is
24 amended to read as follows:

25 Sec. 1951.254. PUBLIC INFORMATION PROGRAM. (a) The
26 department [~~board~~] shall establish a public information program as
27 provided by this section and Sections 1951.453-1951.456 to inform

1 the public about the practice and regulation of structural pest
2 control.

3 (b) The department [~~board~~] may create a public information
4 program advisory committee to assist in the development of a public
5 information program.

6 (c) The department [~~board~~] shall make available to the
7 public and other appropriate state agencies the information
8 compiled as part of the program.

9 (d) The public information program must:

10 (1) include the adoption and distribution, in a manner
11 that the department [~~board~~] considers appropriate, of a standard
12 [~~complaint~~] form for complaints under this chapter; [and]

13 (2) inform prospective applicants for licensing under
14 this chapter about the qualifications and requirements for
15 licensing;

16 (3) inform applicants, license holders, and the public
17 on the department's Internet website, in department brochures, and
18 on any other available information resource about the department's
19 enforcement process under this chapter, including each step in the
20 complaint investigation and resolution process, from initial
21 filing thorough final appeal; and

22 (4) inform license holders that a license holder may
23 obtain information about a complaint made against the license
24 holder and may obtain on request a copy of the complaint file.

25 (e) The department [~~board~~] shall develop a clear, factual,
26 and balanced information sheet of one or more pages containing
27 information on:

- 1 (1) the pest control industry;
- 2 (2) chemicals used in structural pest control;
- 3 (3) general health and safety issues relating to
- 4 structural pest control;
- 5 (4) precautions to take before, during, and after
- 6 application;
- 7 (5) steps to take if a misapplication, including an
- 8 underapplication or an overapplication, is suspected; and
- 9 (6) any other matters determined by the department
- 10 [~~board~~].

11 (f) The information sheet must include:

- 12 (1) the names and telephone numbers of the department
- 13 [~~board, the Department of Agriculture,~~] and the [~~Texas~~] Department
- 14 of State Health Services;
- 15 (2) the telephone number of any pesticide hotline
- 16 established by a state or federal agency or by a state university;
- 17 (3) a statement of a consumer's rights under Chapter
- 18 39, Business & Commerce Code, to cancel a home solicitation
- 19 transaction; and
- 20 (4) information concerning the availability of any
- 21 pretreatment inspection service that may be provided by the
- 22 department [~~board~~] under Section 1951.210.

23 (g) The department [~~board~~] shall develop a sign to be posted

24 in the area of an indoor treatment that contains:

- 25 (1) the date of the planned treatment; and
- 26 (2) any other information required by the department
- 27 [~~board~~].

1 (h) The department shall make available a consumer and
2 industry telephone hotline to provide direct access to the
3 Structural Pest Control Service to ensure timely and efficient
4 assistance with industry and consumer needs.

5 SECTION 1.31. Subchapter F, Chapter 1951, Occupations Code,
6 is amended by adding Section 1951.255 to read as follows:

7 Sec. 1951.255. ENFORCEMENT INFORMATION. (a) The
8 department shall make available to the public information about
9 each final enforcement action taken by the department against a
10 person under this chapter. The department shall provide this
11 information on its Internet website and in other appropriate
12 publications.

13 (b) The department may determine the format in which it will
14 provide the information required under this section.

15 SECTION 1.32. Section 1951.301(b), Occupations Code, is
16 amended to read as follows:

17 (b) A person may not engage in the business of structural
18 pest control unless the person:

19 (1) meets the standards set by the department under
20 this chapter [~~board~~]; and

21 (2) holds a structural pest control business license
22 issued under this chapter.

23 SECTION 1.33. Section 1951.302, Occupations Code, is
24 amended to read as follows:

25 Sec. 1951.302. CERTIFIED COMMERCIAL APPLICATOR'S LICENSE.
26 The department [~~board~~] must determine that an individual is
27 competent to use or supervise the use of a restricted-use pesticide

1 or state-limited-use pesticide covered by the individual's
2 certified commercial applicator's license.

3 SECTION 1.34. Section 1951.303(a), Occupations Code, is
4 amended to read as follows:

5 (a) In this section, "incidental use situation" means a
6 pesticide application, including treating wasps in an area adjacent
7 to a utility meter, treating fire ants in a transformer box, or the
8 treating of ants by a janitor or clerical employee in a break area,
9 that:

10 (1) is on an occasional, isolated, site-specific
11 basis;

12 (2) is incidental to the performance of a primary duty
13 that is not pest control by an employee; and

14 (3) involves the use of general use pesticides after
15 instruction, as provided by rules adopted by the department
16 [~~board~~].

17 SECTION 1.35. Section 1951.304, Occupations Code, is
18 amended to read as follows:

19 Sec. 1951.304. TECHNICIAN LICENSE. The department [~~board~~]
20 may designate different classes or categories for technicians.

21 SECTION 1.36. Section 1951.305, Occupations Code, is
22 amended to read as follows:

23 Sec. 1951.305. APPLICATION. (a) A person must apply for a
24 license under this chapter on a form prescribed and provided by the
25 department [~~board~~].

26 (b) Each applicant must provide the information the
27 department [~~board~~] requires to determine the applicant's

1 qualifications.

2 SECTION 1.37. Section 1951.306, Occupations Code, is
3 amended to read as follows:

4 Sec. 1951.306. WAIVER FOR APPLICANT LICENSED IN ANOTHER
5 STATE. (a) The department [~~board~~] may waive any license
6 requirement under this chapter for an applicant who holds a license
7 issued by another state that has license requirements substantially
8 equivalent to those of this state.

9 (b) The department [~~board~~] may issue an endorsement of
10 license to a person who:

11 (1) establishes residence in this state; and

12 (2) has been determined by the department [~~board~~] to
13 meet the qualifications of a certified applicator by taking the
14 appropriate examination in another state.

15 SECTION 1.38. Section 1951.307, Occupations Code, is
16 amended to read as follows:

17 Sec. 1951.307. LICENSE RENEWAL. A person may renew a
18 license by submitting an application to the department [~~board~~] and
19 paying the required renewal fees.

20 SECTION 1.39. Section 1951.308(a), Occupations Code, is
21 amended to read as follows:

22 (a) The department [~~board~~] by rule may adopt a system under
23 which licenses expire on various dates during the year.

24 SECTION 1.40. Section 1951.309, Occupations Code, is
25 amended to read as follows:

26 Sec. 1951.309. FEE FOR INITIAL OR RENEWAL LICENSE. (a) An
27 applicant for an initial or renewal structural pest control

1 business license or for an initial or renewal endorsement of
2 license under Section 1951.306 must submit with the person's
3 application a fee in an amount established by department rule for:

4 (1) a [~~fee of not more than \$180, as determined by the~~
5 ~~board, for each~~] license or endorsement; and

6 (2) [~~a fee of not more than \$84, as determined by the~~
7 ~~board, for~~] a license for each technician the applicant employs.

8 (b) An applicant for an initial or renewal certified
9 applicator's license must deliver with the person's application a
10 fee in an amount established by department rule for:

11 (1) a [~~fee of not more than \$112.50, as determined by~~
12 ~~the board, for each~~] license; and

13 (2) [~~a fee of not more than \$84, as determined by the~~
14 ~~board, for~~] a license for each technician the applicant employs.

15 SECTION 1.41. Section 1951.310, Occupations Code, is
16 amended to read as follows:

17 Sec. 1951.310. LATE RENEWAL OF LICENSE. (a) The department
18 [~~board~~] may retroactively renew a license issued under this
19 chapter.

20 (b) If the person files a renewal application with the
21 department [~~board~~] not later than the 30th day after the date the
22 person's license expires, the person must pay a [~~late~~]
23 renewal fee that is equal to 1-1/2 times the normally required renewal fee [~~of~~
24 ~~\$37.50~~].

25 (c) If the person files a renewal application with the
26 department [~~board~~] later than the 30th day but not later than the
27 60th day after the date the person's license expires, the person

1 must pay a [~~late~~] renewal fee that is equal to two times the
2 normally required renewal fee [~~of \$75~~].

3 (d) A person who applies for a renewal license after the
4 60th day after the date the person's license expires must be
5 reexamined by the department [~~board~~] to obtain a license.

6 SECTION 1.42. Section 1951.311, Occupations Code, is
7 amended to read as follows:

8 Sec. 1951.311. REPLACEMENT LICENSE; FEE. The department
9 [~~board~~] shall issue to a license holder whose license has been lost
10 or destroyed or whose name has been changed a replacement license if
11 the license holder submits to the department [~~board~~]:

- 12 (1) an appropriate application; and
13 (2) a fee in an amount established by department rule
14 [~~of not more than \$30, as determined by the board~~].

15 SECTION 1.43. Sections 1951.312(a) through (d),
16 Occupations Code, are amended to read as follows:

17 (a) The department [~~board~~] may not issue or renew a
18 structural pest control business license until the license
19 applicant:

- 20 (1) files with the department [~~board~~] a policy or
21 contract of insurance, approved as sufficient by the department
22 [~~board~~], in an amount not less than \$200,000 for bodily injury and
23 property damage coverage, with a minimum total aggregate of
24 \$300,000 for all occurrences, insuring the applicant against
25 liability for damage to persons or property occurring as a result of
26 operations performed in the course of the business of structural
27 pest control on premises or any other property under the

1 applicant's care, custody, or control;

2 (2) in the case of an applicant who has an unexpired
3 and uncanceled insurance policy or contract on file with the
4 department [~~board~~], files with the department [~~board~~] a certificate
5 or other evidence from an insurance company stating that:

6 (A) the policy or contract insures the applicant
7 against liability for acts and damage as described in Subdivision
8 (1); and

9 (B) the amount of insurance coverage is in the
10 amount approved by the department [~~board~~];

11 (3) files with the department [~~board~~] a bond,
12 certificate of deposit, or other proof acceptable to the department
13 [~~board~~] of sufficient funds in an amount not less than \$300,000 for
14 payment of claims of damage to persons or property occurring as a
15 result of operations performed negligently in the course of the
16 business of structural pest control on premises or any other
17 property under the applicant's care, custody, or control; or

18 (4) files with the department [~~board~~] evidence
19 satisfactory to the department [~~board~~] of coverage under a general
20 liability insurance policy, in an amount not less than \$200,000 for
21 bodily injury and property damage coverage, with a minimum total
22 aggregate of \$300,000 for all occurrences, if the applicant
23 operates solely as a wood treater who treats wood on commercial
24 property owned by the applicant.

25 (b) A structural pest control business license holder shall
26 at all times maintain the insurance policy or contract or the
27 security described by Subsection (a)(3) in the amount approved by

1 the department [~~board~~]. Failure to renew the policy or contract or
2 maintain it or the security in the required amount is a ground for
3 suspension or revocation of the license and a violation of this
4 section.

5 (c) The department [~~board~~] by rule may require different
6 amounts of insurance coverage for different classifications of
7 operations under this chapter.

8 (d) The department [~~board~~] may adopt insurance requirements
9 for certified noncommercial applicators or technicians.

10 SECTION 1.44. Section 1951.313, Occupations Code, is
11 amended to read as follows:

12 Sec. 1951.313. MEMORANDUM OF AGREEMENT. The department
13 [~~board~~] may enter into a memorandum of agreement with a political
14 subdivision other than an institution of public or private
15 education concerning licensing requirements.

16 SECTION 1.45. Section 1951.314, Occupations Code, is
17 amended to read as follows:

18 Sec. 1951.314. LICENSE NOT TRANSFERABLE. A license issued
19 by the department under this chapter [~~board~~] is not transferable.

20 SECTION 1.46. Subchapter G, Chapter 1951, Occupations Code,
21 is amended by adding Section 1951.315 to read as follows:

22 Sec. 1951.315. CONTINUING EDUCATION REQUIREMENTS. The
23 department shall administer a mandatory continuing education
24 program for all license holders. Each license holder must comply
25 with the continuing education requirements established by
26 department rule in order to retain or renew a license.

27 SECTION 1.47. Section 1951.351, Occupations Code, is

1 amended to read as follows:

2 Sec. 1951.351. TECHNICIAN TRAINING PROGRAM. (a) The
3 department [~~board~~] shall:

4 (1) develop or approve a training program for licensed
5 technicians and for applicants to become licensed technicians; and

6 (2) require that an applicant for a technician license
7 complete the training program.

8 (b) The department [~~board~~] shall develop the educational
9 and training materials for the training program with the Texas
10 Agricultural Extension Service or any other institution of higher
11 education. The department [~~board~~] shall publish and distribute, in
12 conjunction with the Texas Agricultural Extension Service, the
13 materials developed as a part of the training program.

14 (c) The training program must include instruction in:

15 (1) recognition of pests and pest damage;

16 (2) pesticide labels and label comprehension;

17 (3) pesticide safety;

18 (4) environmental protection;

19 (5) procedures for the immediate reporting of spills
20 and misapplications;

21 (6) application equipment and techniques;

22 (7) pesticide formulations and actions;

23 (8) emergency procedures and pesticide cleanup;

24 (9) state and federal law relating to structural pest
25 control;

26 (10) basic principles of mathematics, chemistry,
27 toxicology, and entomology;

1 (11) nonchemical pest control techniques, including
2 biological, mechanical, and prevention techniques; and

3 (12) any other topic the department [~~board~~] considers
4 necessary.

5 (d) The department [~~board~~] may create a technician training
6 program advisory committee to assist the department [~~board~~] in
7 developing the training program required by this section.

8 (e) The department [~~board~~] may approve a training program
9 that has not been developed by the department [~~board~~] if the program
10 meets the standards adopted by the department [~~board~~] for the
11 program. Completion of a training program approved by the
12 department [~~board~~] under this subsection satisfies Subsection
13 (a)(2).

14 SECTION 1.48. Section 1951.352, Occupations Code, is
15 amended to read as follows:

16 Sec. 1951.352. NEW DEVELOPMENTS; PROOF OF STUDY. If the
17 department [~~board~~] determines that new developments in pest control
18 have occurred that are so significant that proper knowledge of the
19 developments is necessary to protect the public, the department
20 [~~board~~] may require of each applicant proof of study by:

- 21 (1) attending approved training courses; or
22 (2) taking additional examinations on the new
23 developments only.

24 SECTION 1.49. Section 1951.353, Occupations Code, is
25 amended to read as follows:

26 Sec. 1951.353. FEES RELATED TO TRAINING PROGRAMS. (a) The
27 department [~~board~~] may charge a fee to a person to purchase or

1 borrow materials developed for the technician training program
2 under Section 1951.351. The department [~~board~~] shall set the fee in
3 an amount that will recover the costs of the program.

4 (b) The department [~~board~~] may charge a fee in an amount
5 established by rule [~~not to exceed \$75~~] for each course considered
6 for approval under Section 1951.352.

7 SECTION 1.50. Section 1951.401, Occupations Code, is
8 amended to read as follows:

9 Sec. 1951.401. EXAMINATION FOR CERTIFIED APPLICATOR'S
10 LICENSE. The department [~~board~~] may require a person to qualify for
11 a certified applicator's license by passing an examination
12 demonstrating the person's competence in the field of structural
13 pest control.

14 SECTION 1.51. Section 1951.402, Occupations Code, is
15 amended to read as follows:

16 Sec. 1951.402. EXAMINATION FOR TECHNICIAN LICENSE. The
17 department [~~board~~] shall require an applicant for a technician
18 license to pass an examination developed and administered by the
19 department [~~board~~] or a person designated by the department
20 [~~board~~].

21 SECTION 1.52. Section 1951.403, Occupations Code, is
22 amended to read as follows:

23 Sec. 1951.403. EXAMINATION FEE. Each time a person applies
24 to take an examination for a license, the person shall pay the
25 department [~~board~~] an examination fee [~~of not more than \$50~~], in an
26 amount established [~~as determined~~] by [~~the~~] department rule
27 [~~board~~], for each category of examination to be taken. Except as

1 provided by department [~~board~~] rule, an examination fee is not
2 refundable.

3 SECTION 1.53. Section 1951.404, Occupations Code, is
4 amended to read as follows:

5 Sec. 1951.404. LIST OF STUDY MATERIALS AND SEMINARS. The
6 department [~~board~~] shall make public a list of study materials and
7 educational seminars that are available to help applicants
8 successfully complete any examination administered under this
9 chapter.

10 SECTION 1.54. Section 1951.405, Occupations Code, is
11 amended to read as follows:

12 Sec. 1951.405. EXAMINATION RESULTS. (a) Not later than the
13 30th day after the date a licensing examination is administered
14 under this chapter, the department [~~board~~] shall notify each
15 examinee of the results of the examination. If an examination is
16 graded or reviewed by a national testing service, the department
17 [~~board~~] shall notify each examinee of the results of the
18 examination not later than the 14th day after the date the
19 department [~~board~~] receives the results from the testing service.

20 (b) If notice of the results of an examination graded or
21 reviewed by a national testing service will be delayed for more than
22 90 days after the examination date, the department [~~board~~] shall
23 notify each examinee of the reason for the delay before the 90th
24 day.

25 (c) If requested in writing by a person who fails a
26 licensing examination administered under this chapter, the
27 department [~~board~~] shall provide to the person an analysis of the

1 person's performance on the examination.

2 SECTION 1.55. Subchapter I, Chapter 1951, Occupations Code,
3 is amended by adding Section 1951.406 to read as follows:

4 Sec. 1951.406. EXAMINATION POLICY. (a) The department
5 shall develop a written policy governing licensing examinations
6 under this subchapter that prescribes:

7 (1) procedures to improve the design and construction
8 of examinations;

9 (2) procedures for administering the examinations;
10 and

11 (3) the process for evaluating examinations in use.

12 (b) The policy must include:

13 (1) a procedure for seeking assistance in the
14 development of examinations from experts in:

15 (A) structural pest control;

16 (B) structural pest control education; and

17 (C) examination creation and validation;

18 (2) a schedule that provides for examination revision
19 and maintenance, including the regular update of examinations;

20 (3) a procedure to routinely analyze and validate
21 examinations;

22 (4) a procedure for the development of a bank of
23 questions for each examination;

24 (5) guidelines for developing examinations from the
25 bank of questions;

26 (6) the number and type of questions for each
27 examination; and

1 (7) a requirement that the person responsible for
2 examination development make periodic reports on examination
3 issues to the commissioner.

4 SECTION 1.56. Section 1951.451, Occupations Code, is
5 amended to read as follows:

6 Sec. 1951.451. CONTRACT FOR PEST CONTROL SERVICES. A
7 written contract under which a license holder under this chapter
8 agrees to perform structural pest control services in this state
9 must include:

10 (1) the department's [~~board's~~] mailing address and
11 telephone number; and

12 (2) a statement that the department [~~board~~] has
13 jurisdiction over individuals licensed under this chapter.

14 SECTION 1.57. Section 1951.452, Occupations Code, is
15 amended to read as follows:

16 Sec. 1951.452. RECORDS OF LICENSE HOLDER. (a) The
17 department [~~board~~] may require each license holder to make records,
18 as prescribed by the department [~~board~~], of the license holder's
19 use of pesticides.

20 (b) Subject to Subsection (c), a record required under
21 Subsection (a) shall be:

22 (1) maintained for at least two years on the license
23 holder's business premises; and

24 (2) made available for inspection by the department
25 [~~board~~] and its authorized agents during normal business hours.

26 (c) A certified noncommercial applicator shall maintain
27 required records on the premises of the person's employer for at

1 least two years. The records shall be made available for inspection
2 by the department [~~board~~] and its authorized agents during the
3 employer's normal operating hours.

4 SECTION 1.58. Sections 1951.456(a), (b), and (d),
5 Occupations Code, are amended to read as follows:

6 (a) The department [~~board~~] shall develop a policy to
7 implement and enforce Sections 1951.453-1951.455.

8 (b) Under rules adopted by the department [~~board~~], a
9 requirement under Sections 1951.453-1951.455 that notice of a
10 treatment be given at least 48 hours before the treatment may be
11 waived for emergency treatments.

12 (d) For the purposes of Sections 1951.453-1951.455, a
13 treatment is an indoor treatment even though the treatment may
14 include an outside perimeter treatment of the building if the
15 primary purpose of the treatment is to treat the inside of the
16 building. The department [~~board~~] shall by rule define a perimeter
17 treatment and shall adopt the definitions provided in federal law.

18 SECTION 1.59. Section 1951.457(c), Occupations Code, is
19 amended to read as follows:

20 (c) The department [~~board~~] may adopt rules to require the
21 distribution of a pest control information sheet for an outdoor
22 treatment other than an outdoor treatment described by this section
23 if the department [~~board~~] determines that the distribution or
24 posting, or both, would protect the public's health, safety, and
25 welfare.

26 SECTION 1.60. Section 1951.501, Occupations Code, is
27 amended to read as follows:

1 Sec. 1951.501. DISCIPLINARY POWERS OF COMMISSIONER
2 RELATING TO STRUCTURAL PEST CONTROL [~~BOARD~~]. (a) In this section,
3 "parent company" means an individual or a partnership, corporation,
4 or other business entity holding one or more structural pest
5 control business licenses.

6 (b) On a determination that an applicant or structural pest
7 control business license holder under a parent company has
8 substantially failed to comply with the standards and rules
9 established by the department under this chapter [~~board~~], after
10 notice and a hearing, the commissioner [~~board~~] may refuse to:

- 11 (1) examine the applicant;
- 12 (2) issue a license to the applicant; or
- 13 (3) issue a business license to the parent company.

14 (c) On a determination that a person has violated this
15 chapter or a [~~board~~] rule adopted by the department under this
16 chapter, the commissioner [~~board~~] may:

- 17 (1) revoke the person's license;
- 18 (2) suspend the person's license;
- 19 (3) place on probation a person whose license has been
20 suspended; or
- 21 (4) reprimand a license holder.

22 (d) The commissioner [~~board~~] may require a person whose
23 license suspension is probated to:

- 24 (1) report regularly to the department [~~board~~] on
25 matters that are the basis of the probation;

- 26 (2) limit practice to the areas prescribed by the
27 department [~~board~~]; or

1 (3) continue or renew professional education until the
2 license holder attains a degree of skill satisfactory to the
3 department [~~board~~] in those areas that are the basis of the
4 probation.

5 SECTION 1.61. Section 1951.502, Occupations Code, is
6 amended to read as follows:

7 Sec. 1951.502. RIGHT TO HEARING. (a) If the commissioner
8 [~~board~~] proposes to suspend or revoke a person's license, the
9 person is entitled to a hearing before the commissioner [~~board~~] or a
10 hearings officer appointed by the commissioner [~~board~~].

11 (b) The commissioner [~~board~~] shall establish procedures by
12 which a decision to suspend or revoke a license is made by or is
13 appealable to the commissioner [~~board~~].

14 SECTION 1.62. Sections 1951.503(a) and (b), Occupations
15 Code, are amended to read as follows:

16 (a) An applicant or license holder may appeal from an order
17 or other action of the commissioner under this chapter [~~board~~] by
18 bringing an action in a district court of Travis County.

19 (b) Notice of appeal must be filed not later than the 30th
20 day after the date the commissioner [~~board~~] issues the order.

21 SECTION 1.63. Sections 1951.504(a), (b), (c), and (e),
22 Occupations Code, are amended to read as follows:

23 (a) A settlement of a contested case under Chapter 2001,
24 Government Code, must be approved by the commissioner [~~board~~].

25 (b) The department [~~board~~] by rule shall establish
26 guidelines for the settlement of a contested case under Chapter
27 2001, Government Code.

1 (c) The commissioner [~~board~~] may authorize the department
2 [~~its representatives~~] to conduct informal settlement negotiations
3 between the department [~~board~~] and a license holder to resolve a
4 complaint, other than a complaint involving a misapplication, by a
5 consumer against the license holder.

6 (e) The department [~~board~~] by rule shall establish
7 guidelines for the informal settlement of consumer complaints as
8 provided by Subsections (c) and (d).

9 SECTION 1.64. Sections 1951.505(b) and (c), Occupations
10 Code, are amended to read as follows:

11 (b) A person whose license is revoked may not apply for a new
12 license until the first anniversary of the effective date of the
13 revocation. A new license may not be issued without the approval of
14 the department [~~board~~].

15 (c) If the commissioner [~~board~~] revokes the license of a
16 certified applicator in one category, the commissioner [~~board~~] may
17 place the applicator on probation for any other category in which
18 the applicator is licensed.

19 SECTION 1.65. Subchapter K, Chapter 1951, Occupations Code,
20 is amended by adding Section 1951.506 to read as follows:

21 Sec. 1951.506. EMERGENCY SUSPENSION. (a) The commissioner
22 shall temporarily suspend the license of a person licensed under
23 this chapter if the commissioner determines from the evidence or
24 information presented to the commissioner that continued practice
25 by the person would constitute a continuing and imminent threat to
26 the public welfare or environment.

27 (b) A license may be suspended under this section without

1 notice or hearing on the complaint if:

2 (1) action is taken to initiate proceedings for a
3 hearing before the State Office of Administrative Hearings
4 simultaneously with the temporary suspension; and

5 (2) a hearing is held as soon as practicable under this
6 chapter and Chapter 2001, Government Code.

7 (c) The State Office of Administrative Hearings shall hold a
8 preliminary hearing not later than the 14th day after the date of
9 the temporary suspension to determine if there is probable cause to
10 believe that a continuing and imminent threat to the public welfare
11 or environment still exists. A final hearing on the matter shall be
12 held not later than the 61st day after the date of the temporary
13 suspension.

14 SECTION 1.66. Section 1951.551, Occupations Code, is
15 amended to read as follows:

16 Sec. 1951.551. IMPOSITION OF ADMINISTRATIVE PENALTY. The
17 commissioner [~~board~~] may impose an administrative penalty on a
18 person who violates this chapter, [or] a rule adopted or order
19 issued under this chapter, or a cease and desist order issued under
20 Section 1951.604 [~~by the board~~].

21 SECTION 1.67. Section 1951.552(b), Occupations Code, is
22 amended to read as follows:

23 (b) In determining the amount of the penalty, the
24 commissioner [~~board~~] shall consider:

25 (1) the seriousness of the violation, including:

26 (A) the nature, circumstances, extent, and
27 gravity of any prohibited act; and

1 (B) the hazard or potential hazard created to the
2 health or safety of the public;

3 (2) the economic damage to property or the environment
4 caused by the violation;

5 (3) the history of previous violations;

6 (4) the amount necessary to deter future violations;

7 (5) efforts to correct the violation; and

8 (6) any other matter that justice may require.

9 SECTION 1.68. Section 1951.553, Occupations Code, is
10 amended to read as follows:

11 Sec. 1951.553. REPORT AND NOTICE OF VIOLATION AND PENALTY.

12 (a) If, after investigation of a possible violation and the facts
13 surrounding that possible violation, the commissioner [~~executive~~
14 ~~director~~] determines that a violation has occurred, the
15 commissioner [~~executive director~~] may issue a violation report:

16 (1) stating the facts on which the conclusion that a
17 violation occurred is based;

18 (2) recommending that an administrative penalty under
19 this subchapter be imposed on the person charged; and

20 (3) recommending the amount of the proposed penalty.

21 (b) The commissioner [~~executive director~~] must base the
22 recommended amount of the proposed penalty on the seriousness of
23 the violation determined after considering the factors set forth in
24 Section 1951.552(b).

25 (c) Not later than the 14th day after the date on which the
26 report is issued, the commissioner [~~executive director~~] shall give
27 written notice of the report to the person charged. The notice must

1 include:

2 (1) a brief summary of the charges;

3 (2) a statement of the amount of the penalty
4 recommended; and

5 (3) a statement of the right of the person charged to a
6 hearing on the occurrence of the violation, the amount of the
7 penalty, or both.

8 SECTION 1.69. Section 1951.554, Occupations Code, is
9 amended to read as follows:

10 Sec. 1951.554. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
11 Not later than the 20th day after the date the person receives the
12 notice, the person may:

13 (1) accept the commissioner's [~~executive director's~~]
14 determination, including the recommended administrative penalty;
15 or

16 (2) make a written request for a hearing on the
17 determination.

18 (b) If the person charged accepts the commissioner's
19 [~~executive director's~~] determination, the commissioner [~~board~~]
20 shall issue an order approving the determination and ordering the
21 payment of the recommended penalty.

22 SECTION 1.70. Section 1951.555, Occupations Code, is
23 amended to read as follows:

24 Sec. 1951.555. HEARING; DECISION BY COMMISSIONER [~~BOARD~~].

25 (a) If the person requests a hearing or fails to respond in a timely
26 manner to the notice, the commissioner [~~board~~] shall set a hearing
27 and give notice of the hearing.

1 (b) The hearing shall be held by a hearings examiner
2 designated by the commissioner [~~board~~]. The hearings examiner
3 shall make findings of fact and conclusions of law and promptly
4 issue to the commissioner [~~board~~] a proposal for a decision as to
5 the occurrence of the violation, including a recommendation as to
6 the amount of any proposed administrative penalty.

7 (c) Based on the findings of fact, conclusions of law, and
8 recommendations of the hearings examiner, the commissioner [~~board~~]
9 by order may:

10 (1) determine that a violation occurred and impose a
11 penalty; or

12 (2) determine that a violation did not occur.

13 (d) A proceeding under this section is subject to Chapter
14 2001, Government Code.

15 SECTION 1.71. Section 1951.556, Occupations Code, is
16 amended to read as follows:

17 Sec. 1951.556. NOTICE OF ORDER. The commissioner [~~board~~]
18 shall give notice of the order to the person. The notice must
19 include:

20 (1) the findings of fact and conclusions of law,
21 separately stated;

22 (2) the amount of any administrative penalty imposed;

23 (3) a statement of the person's right to judicial
24 review of the commissioner's [~~board's~~] order; and

25 (4) any other information required by law.

26 SECTION 1.72. Section 1951.557, Occupations Code, is
27 amended to read as follows:

1 Sec. 1951.557. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

2 (a) Not later than the 30th day after the date the commissioner's
3 ~~[board's]~~ order becomes final, the person shall:

4 (1) pay the administrative penalty; or

5 (2) file a petition for judicial review contesting the
6 fact of the violation, the amount of the penalty, or both.

7 (b) Within the period prescribed by Subsection (a), a person
8 who acts under Subsection (a)(2) may stay enforcement of the
9 penalty by:

10 (1) paying the penalty to the department ~~[board]~~ for
11 placement in an escrow account;

12 (2) giving the department ~~[board]~~ a supersedeas bond
13 in a form approved by the department ~~[board]~~ that:

14 (A) is for the amount of the penalty; and

15 (B) is effective until judicial review of the
16 commissioner's ~~[board's]~~ order is final; or

17 (3) filing with the department ~~[board]~~ an affidavit
18 stating that the person is financially unable to either pay the
19 penalty or give the bond.

20 (c) A person who fails to take action as provided by this
21 section waives the right to judicial review of the commissioner's
22 ~~[board's]~~ order.

23 SECTION 1.73. Section 1951.558, Occupations Code, is
24 amended to read as follows:

25 Sec. 1951.558. COLLECTION OF PENALTY. If the person does
26 not pay the administrative penalty and the enforcement of the
27 penalty is not stayed, the department ~~[board]~~ may refer the matter

1 to the attorney general for collection of the penalty.

2 SECTION 1.74. Section 1951.559(a), Occupations Code, is
3 amended to read as follows:

4 (a) If, after judicial review, the administrative penalty
5 is reduced or is not upheld by the court, the department [~~board~~]
6 shall:

7 (1) remit the appropriate amount, plus accrued
8 interest, to the person against whom the penalty is imposed, if the
9 person paid the penalty; or

10 (2) execute a release of the bond, if the person gave a
11 supersedeas bond.

12 SECTION 1.75. Section 1951.601, Occupations Code, is
13 amended to read as follows:

14 Sec. 1951.601. ENFORCEMENT ACTION FOR MISAPPLICATION OF
15 PESTICIDES. If the commissioner [~~board~~] finds that an applicator
16 has misapplied pesticides, the commissioner [~~board~~] shall
17 institute an enforcement action against the applicator. The
18 department [~~board~~] by rule shall adopt a policy to implement this
19 section.

20 SECTION 1.76. Section 1951.602, Occupations Code, is
21 amended to read as follows:

22 Sec. 1951.602. CIVIL PENALTY; INJUNCTION. (a) A person who
23 violates this chapter or a rule, license, or order of the
24 commissioner [~~board~~] is subject to a civil penalty of not less than
25 \$50 or more than \$2,000 for each act of violation and for each day of
26 violation.

27 (b) If it appears that a person has violated or is

1 threatening to violate this chapter or a rule, license, or order of
2 the commissioner [~~board~~], the commissioner [~~board, or the executive~~
3 ~~director if authorized by the board,~~] may have a civil action
4 instituted in a district court for:

5 (1) injunctive relief to restrain the person from
6 continuing the violation or threat of violation;

7 (2) the assessment and recovery of a civil penalty
8 under Subsection (a); or

9 (3) both injunctive relief and the civil penalty.

10 (c) On application for injunctive relief and a finding that
11 a person is violating or threatening to violate this chapter or a
12 rule, license, or order of the commissioner [~~board~~], the district
13 court shall grant injunctive relief as the facts warrant.

14 (d) At the request of the commissioner [~~board, or the~~
15 ~~executive director if authorized by the board~~], the attorney
16 general shall institute and conduct an action in the name of the
17 state for the injunctive relief, to recover the civil penalty, or
18 both.

19 SECTION 1.77. Subchapter M, Chapter 1951, Occupations Code,
20 is amended by adding Section 1951.604 to read as follows:

21 Sec. 1951.604. CEASE AND DESIST ORDER. If it appears to the
22 commissioner that a person who is not licensed under this chapter is
23 violating this chapter, a rule adopted under this chapter, or
24 another state statute or rule relating to the practice of
25 structural pest control, the commissioner after notice and
26 opportunity for a hearing may issue a cease and desist order
27 prohibiting the person from engaging in the activity.

1 SECTION 1.78. Subchapter M, Chapter 1951, Occupations Code,
2 is amended by adding Section 1951.605 to read as follows:

3 Sec. 1951.605. STOP USE ORDER. (a) If the department has
4 reason to believe that a person licensed under this chapter is using
5 or is in possession of a pesticide that is in violation of Chapter
6 76, Agriculture Code, the department may issue and enforce a
7 written or printed order to stop the use of the pesticide. The
8 department shall present the order to the owner or custodian of the
9 pesticide. The person who receives the order may not use the
10 pesticide until the department determines that the pesticide:

11 (1) is in compliance with this chapter; or

12 (2) does not present a hazard to the public health,
13 safety, or welfare.

14 (b) This section does not limit the right of the department
15 or commissioner to proceed as authorized by another section of this
16 chapter, including in the assessment of an administrative penalty
17 under this chapter.

18 (c) A person may appeal an order issued under this section
19 in the manner provided by Subchapters K and L.

20 SECTION 1.79. The following provisions of the Occupations
21 Code are repealed:

22 (1) Section 1951.002(2);

23 (2) Section 1951.007;

24 (3) Sections 1951.106(b) and (c);

25 (4) Section 1951.107; and

26 (5) Subchapter D, Chapter 1951.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 88.215(b), Education Code, is amended to read as follows:

(b) The advisory committee consists of 11 [~~12~~] members appointed as follows:

(1) one representative of Texas A & M University appointed by the director of the Texas Agricultural Experiment Station;

(2) one representative of Texas Tech University appointed by the dean of the College of Agriculture of Texas Tech University;

(3) one representative of The University of Texas appointed by the vice president for research of The University of Texas System;

(4) one representative of the Department of Agriculture appointed by the commissioner of agriculture;

(5) one representative of the Parks and Wildlife Department appointed by the director of the department;

(6) one representative of the Public Utility Commission of Texas appointed by the executive director of the commission;

(7) one representative of municipal governments appointed by the governor;

(8) one representative of the general public appointed by the governor;

(9) one representative of the agribusiness industry appointed by the governor;

1 (10) [~~one representative of the Texas Structural Pest~~
2 ~~Control Board appointed by the executive director of the board;~~

3 [~~(11)~~] one representative of the chemical industry
4 appointed by the Texas Chemical Council; and

5 (11) [~~(12)~~] one representative of the oil and gas
6 industry appointed by the Texas Mid-Continent Oil and Gas
7 Association.

8 SECTION 2.02. Section 232.002, Family Code, is amended to
9 read as follows:

10 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO
11 CHAPTER. The following are licensing authorities subject to this
12 chapter:

- 13 (1) Department of Agriculture;
- 14 (2) Texas Alcoholic Beverage Commission;
- 15 (3) Texas Appraiser Licensing and Certification
16 Board;
- 17 (4) Texas Board of Architectural Examiners;
- 18 (5) Texas Board of Chiropractic Examiners;
- 19 (6) Comptroller of Public Accounts;
- 20 (7) Court Reporters Certification Board;
- 21 (8) State Board of Dental Examiners;
- 22 (9) Texas State Board of Examiners of Dietitians;
- 23 (10) Texas Funeral Service Commission;
- 24 (11) Department of State Health Services;
- 25 (12) Department of Aging and Disability Services;
- 26 (13) Texas Board of Professional Land Surveying;
- 27 (14) Texas Department of Licensing and Regulation;

- 1 (15) Texas State Board of Examiners of Marriage and
2 Family Therapists;
- 3 (16) Texas [~~State Board of~~ Medical Board [~~Examiners~~];
- 4 (17) Midwifery Board;
- 5 (18) Texas Commission on Environmental Quality;
- 6 (19) Board of Nurse Examiners;
- 7 (20) Texas Board of Occupational Therapy Examiners;
- 8 (21) Texas Optometry Board;
- 9 (22) Parks and Wildlife Department;
- 10 (23) Texas State Board of Examiners of Perfusionists;
- 11 (24) Texas State Board of Pharmacy;
- 12 (25) Texas Board of Physical Therapy Examiners;
- 13 (26) Texas State Board of Plumbing Examiners;
- 14 (27) Texas State Board of Podiatric Medical Examiners;
- 15 (28) Polygraph Examiners Board;
- 16 (29) Texas Private Security Board;
- 17 (30) Texas State Board of Examiners of Professional
18 Counselors;
- 19 (31) Texas Board of Professional Engineers;
- 20 (32) Department of Family and Protective Services;
- 21 (33) Texas State Board of Examiners of Psychologists;
- 22 (34) Texas State Board of Public Accountancy;
- 23 (35) Department of Public Safety of the State of
24 Texas;
- 25 (36) Public Utility Commission of Texas;
- 26 (37) Railroad Commission of Texas;
- 27 (38) Texas Real Estate Commission;

- 1 (39) State Bar of Texas;
- 2 (40) Texas State Board of Social Worker Examiners;
- 3 (41) State Board of Examiners for Speech-Language
- 4 Pathology and Audiology;
- 5 (42) [~~Texas Structural Pest Control Board~~;
- 6 [~~43~~] Board of Tax Professional Examiners;
- 7 (43) [~~44~~] Secretary of State;
- 8 (44) [~~45~~] Supreme Court of Texas;
- 9 (45) [~~46~~] Texas Transportation Commission;
- 10 (46) [~~47~~] State Board of Veterinary Medical
- 11 Examiners;
- 12 (47) [~~48~~] Texas Ethics Commission;
- 13 (48) [~~49~~] Advisory Board of Athletic Trainers;
- 14 (49) [~~50~~] State Committee of Examiners in the
- 15 Fitting and Dispensing of Hearing Instruments;
- 16 (50) [~~51~~] Texas Board of Licensure for Professional
- 17 Medical Physicists;
- 18 (51) [~~52~~] Texas Department of Insurance;
- 19 (52) [~~53~~] Texas Board of Orthotics and Prosthetics;
- 20 (53) [~~54~~] savings and mortgage lending [~~loan~~]
- 21 commissioner;
- 22 (54) [~~55~~] Texas Juvenile Probation Commission; and
- 23 (55) [~~56~~] Texas Lottery Commission under Chapter
- 24 466, Government Code.

25 SECTION 2.03. Section 2054.352(a), Government Code, is

26 amended to read as follows:

27 (a) The following licensing entities shall participate in

1 the system established under Section 2054.353:

- 2 (1) Texas Board of Chiropractic Examiners;
- 3 (2) Court Reporters Certification Board;
- 4 (3) State Board of Dental Examiners;
- 5 (4) Texas Funeral Service Commission;
- 6 (5) Texas Board of Professional Land Surveying;
- 7 (6) Texas [~~State Board of~~] Medical Board [~~Examiners~~];
- 8 (7) Board of Nurse Examiners;
- 9 (8) Texas Optometry Board;
- 10 (9) Department of Agriculture, for licenses issued
- 11 under Chapter 1951, Occupations Code [~~Texas Structural Pest Control~~
- 12 ~~Board~~];
- 13 (10) Texas State Board of Pharmacy;
- 14 (11) Executive Council of Physical Therapy and
- 15 Occupational Therapy Examiners;
- 16 (12) Texas State Board of Plumbing Examiners;
- 17 (13) Texas State Board of Podiatric Medical Examiners;
- 18 (14) Board of Tax Professional Examiners;
- 19 (15) Polygraph Examiners Board;
- 20 (16) Texas State Board of Examiners of Psychologists;
- 21 (17) State Board of Veterinary Medical Examiners;
- 22 (18) Texas Real Estate Commission;
- 23 (19) Texas Appraiser Licensing and Certification
- 24 Board;
- 25 (20) Texas Department of Licensing and Regulation;
- 26 (21) Texas State Board of Public Accountancy;
- 27 (22) State Board for Educator Certification;

- 1 (23) Texas Board of Professional Engineers;
2 (24) Department of State Health Services;
3 (25) Texas Board of Architectural Examiners;
4 (26) Texas Racing Commission;
5 (27) Commission on Law Enforcement Officer Standards
6 and Education; and
7 (28) Texas Private Security Board.

8 SECTION 2.04. Section 411.101, Government Code, is
9 repealed.

10 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

11 SECTION 3.01. (a) The Texas Structural Pest Control Board
12 is abolished but continues in existence until March 1, 2008, for the
13 sole purpose of transferring obligations, property, full-time
14 equivalent positions, rights, powers, and duties to the Department
15 of Agriculture. The Department of Agriculture assumes all of the
16 obligations, property, full-time equivalent positions, rights,
17 powers, and duties of the Texas Structural Pest Control Board, as it
18 exists immediately before the effective date of this Act. All
19 unexpended funds appropriated to the Texas Structural Pest Control
20 Board are transferred to the Department of Agriculture. The
21 transfer of the obligations, property, full-time equivalent
22 positions, rights, powers, and duties of the Texas Structural Pest
23 Control Board to the Department of Agriculture must be completed
24 not later than March 1, 2008.

25 (b) All rules of the Texas Structural Pest Control Board are
26 continued in effect as rules of the Department of Agriculture until
27 superseded by a rule of the Department of Agriculture. A

1 certificate, license, or permit issued by the Texas Structural Pest
2 Control Board is continued in effect as provided by the law in
3 effect immediately before the effective date of this Act. A
4 complaint, investigation, contested case, or other proceeding
5 pending on the effective date of this Act is continued without
6 change in status after the effective date of this Act. An
7 inspection or other activity conducted by the Texas Structural Pest
8 Control Board is considered to be an inspection or activity
9 conducted by the Department of Agriculture.

10 (c) A reference in another law or an administrative rule to
11 the Texas Structural Pest Control Board means the Department of
12 Agriculture.

13 SECTION 3.02. (a) The Texas Structural Pest Control Board,
14 in cooperation with and at the direction of the Department of
15 Agriculture, shall complete all necessary computer programming and
16 other tasks to ensure that the agency numbers assigned by the
17 comptroller to the board and the department are not necessary for
18 any fiscal year after 2007, except to complete earlier fiscal year
19 revenue and expenditure transactions and reporting. The number
20 assigned by the comptroller to the Department of Agriculture shall
21 be used to record transactions related to the regulation of
22 structural pest control beginning in fiscal year 2008.

23 (b) Not later than July 1, 2007, the Texas Structural Pest
24 Control Board shall request that the comptroller grant the
25 Department of Agriculture inquiry-only security access to the
26 uniform statewide accounting system, the state property accounting
27 system, the uniform statewide payroll system, and the human

1 resources information system for the board. The Department of
2 Agriculture and the comptroller may coordinate implementation of
3 this section.

4 (c) Not later than July 15, 2007, the Department of
5 Agriculture shall provide to the Texas Structural Pest Control
6 Board detailed information regarding the board's responsibilities
7 under Subsection (a) of this section.

8 SECTION 3.03. The change in law made by this Act with
9 respect to conduct that is grounds for imposition of a disciplinary
10 sanction, including an emergency suspension or a cease and desist
11 order, applies only to conduct that occurs on or after September 1,
12 2007. Conduct that occurs before September 1, 2007, is governed by
13 the law in effect on the date the conduct occurred, and the former
14 law is continued in effect for that purpose.

15 SECTION 3.04. Not later than September 1, 2008, the
16 Department of Agriculture shall adopt rules and policies required
17 under:

18 (1) Section 1951.105, Occupations Code, as amended by
19 this Act;

20 (2) Section 1951.207(a)(2), Occupations Code, as
21 amended by this Act;

22 (3) Section 1951.212(d), Occupations Code, as amended
23 by this Act; and

24 (4) Section 1951.406, Occupations Code, as added by
25 this Act.

26 SECTION 3.05. Not later than September 1, 2008, the
27 commissioner of agriculture shall appoint the initial members of

1 the structural pest control advisory committee under Section
2 1951.101, Occupations Code, as amended by this Act.

3 SECTION 3.06. Not later than September 1, 2008, each school
4 district shall provide the name, address, telephone number, and
5 e-mail address of the district's integrated pest management
6 coordinator to the Department of Agriculture as required by Section
7 1951.212(e), Occupations Code, as amended by this Act.

8 SECTION 3.07. (a) Except as provided by Subsection (b) of
9 this section, this Act takes effect September 1, 2007.

10 (b) Section 3.02 of this Act takes effect immediately if
11 this Act receives a vote of two-thirds of all the members elected to
12 each house, as provided by Section 39, Article III, Texas
13 Constitution. If this Act does not receive the vote necessary for
14 immediate effect, Section 3.02 does not take effect.

President of the Senate

Speaker of the House

I certify that H.B. No. 2458 was passed by the House on April 23, 2007, by the following vote: Yeas 137, Nays 2, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2458 on May 21, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2458 on May 26, 2007, by the following vote: Yeas 137, Nays 2, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2458

I certify that H.B. No. 2458 was passed by the Senate, with amendments, on May 17, 2007, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2458 on May 25, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor