

House Bill 2458
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ARTICLE 1. CHANGES TO THE TEXAS
STRUCTURAL PEST CONTROL ACT

No equivalent provision.

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:

No equivalent provision.

(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]~~.

No equivalent provision.

SECTION 1.02. Section 1951.053, Occupations Code, is amended to read as follows:

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

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

(A) holds a florist or nursery registration certificate from the department ~~[Department of Agriculture]~~ under Section 71.043, Agriculture Code, other than a registration certificate that permits the sale, lease, or

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distribution of nursery products or floral items only at a temporary market; and

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

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

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

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

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

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

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

(c) Neither this section nor any other law shall prohibit a political subdivision from reducing the number of hours of training or other requirements for an employee conducting larval mosquito control on property owned or

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controlled by the political subdivision using biological pesticides approved for general use by the [~~Texas~~] Department of State Health Services, provided the employee is given instructions adequate to ensure the safe and effective use of such pesticides.

SECTION 1.03. Section 1951.055(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person who uses pest control chemicals that are for household use and are available for purchase in retail food stores, such as aerosol bombs and spray cans, if the insecticide is used in accordance with the label directions on the insecticide or with department [~~board~~] rules or guidelines or as provided by Section 1951.303 and is:

- (1) used by the owner of a building or the owner's employee or agent in an area occupied by the owner in a residential building; or
- (2) used in a place that is vacant, unused, and unoccupied.

No equivalent provision.

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No equivalent provision.

SECTION 1. Section 1951.007, Occupations Code, is amended to read as follows:

Sec. 1951.007. APPLICATION OF SUNSET ACT. The Texas Structural Pest Control Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2011 [~~2007~~].

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SECTION 1.04. Section 1951.056(a), Occupations Code, is amended to read as follows:

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

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

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

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

SECTION 1.05. The heading to Subchapter C, Chapter 1951, Occupations Code, is amended to read as follows:
SUBCHAPTER C. ~~[TEXAS]~~ STRUCTURAL PEST CONTROL ADVISORY COMMITTEE ~~[BOARD]~~

SECTION 1.06. Section 1951.101, Occupations Code, is amended to read as follows:

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

(1) experts in structural pest control; and

(2) representatives of the public.

(b) Members of the committee serve at the pleasure of

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SECTION 2. Section 1951.056(a), Occupations Code, is amended to read as follows:

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

(1) is registered with the board and with the chief apiary inspector as provided by Subchapter C, Chapter 131, Agriculture Code;

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

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

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~~the commissioner [Six members are appointed by the governor with the advice and consent of the senate as follows:~~

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

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

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

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

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

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

SECTION 1.07. Section 1951.102, Occupations Code, is amended to read as follows:

Sec. 1951.102. ELIGIBILITY OF PUBLIC MEMBERS.

A person is not eligible for appointment as a public member of the committee [board] if:

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

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

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

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control;

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

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

(D) uses or receives a substantial amount of tangible goods, services, or funds from the department [~~board~~], other than compensation or reimbursement authorized by law for committee [~~board~~] membership, attendance, or expenses.

SECTION 1.08. Section 1951.103, Occupations Code, is amended to read as follows:

Sec. 1951.103. MEMBERSHIP [~~AND EMPLOYEE~~ RESTRICTIONS.

(a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

SECTION 3. Sections 1951.103(a), (b), and (d), Occupations Code, are amended to read as follows:

(a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person [~~An officer, employee, or paid consultant of a Texas trade association in the field of pest control]~~ may not be a member of the board and may not be a board [~~an~~] employee employed in a "bona fide executive, administrative, or professional capacity" as that phrase is

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1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of pest control;

or

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

(c) A person may not be a member of the committee if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department ~~[who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of pest control may not be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

~~[(d) A person may not serve as a member of the board or~~

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used for purposes of establishing an exemption to the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of pest control;

or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of pest control ~~[of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

(d) A person may not be [serve as] a member of the

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~~act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.]~~

SECTION 1.09. Section 1951.104, Occupations Code, is amended to read as follows:

Sec. 1951.104. DUTIES OF COMMITTEE ~~[TERMS]~~.

The committee shall:

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

(2) advise the department and the commissioner on:

(A) the education and curricula requirements for applicants;

(B) the content of examinations under this chapter;

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

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

SECTION 1.10. Section 1951.105, Occupations Code, is amended to read as follows:

Sec. 1951.105. RULES GOVERNING COMMITTEE ~~[PRESIDING OFFICER]~~. The department shall adopt

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board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

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SECTION 4. Section 1951.105, Occupations Code, is amended to read as follows:

Sec. 1951.105. PRESIDING OFFICER.

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rules for the operation of the committee, including rules governing:

- (1) the purpose, role, responsibility, and goals of the committee;
- (2) the size of and quorum requirements for the committee;
- (3) the qualifications required for members of the committee, which may include experience and geographic representation requirements;
- (4) the appointment process for the committee;
- (5) the members' terms;
- (6) the training requirements;
- (7) a process to regularly evaluate the effectiveness of the committee; and
- (8) a requirement that the committee comply with Chapter 551, Government Code [The governor shall designate a member of the board as presiding officer. The presiding officer serves in that capacity at the pleasure of the governor].

SECTION 1.11. The heading to Section 1951.106, Occupations Code, is amended to read as follows:
Sec. 1951.106. APPLICABILITY OF OTHER LAW TO COMMITTEE [~~GROUND FOR REMOVAL~~].

SECTION 1.12. Section 1951.106(a), Occupations Code, is amended to read as follows:
(a) Section 2110.008, Government Code, does not apply to the committee [~~It is a ground for removal from the board that a member:~~

The governor shall designate a public member of the board as presiding officer. The presiding officer serves in that capacity at the pleasure of the governor.

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SECTION 5. Sections 1951.106(a) and (c), Occupations Code, are amended to read as follows:
(a) It is a ground for removal from the board that a member:

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

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

~~[(3) violates a prohibition established by Section 1951.103;~~

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

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

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(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 1951.101 ~~[or 1951.102, as applicable];~~

(2) does not maintain during service on the board the qualifications required by Section 1951.101 ~~[or 1951.102, as applicable];~~

(3) is ineligible for membership under ~~[violates a prohibition established by]~~ Section 1951.102 or 1951.103;

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

(5) is absent from more than half of the regularly scheduled board meetings ~~[of the board]~~ that the member is eligible to attend during a calendar year without an excuse approved ~~[unless that absence is excused]~~ by a majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

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SECTION 1.13. The heading to Subchapter E, Chapter

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1951, Occupations Code, is amended to read as follows:
SUBCHAPTER E. [BOARD] POWERS AND DUTIES
OF DEPARTMENT RELATING TO STRUCTURAL
PEST CONTROL

No equivalent provision.

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SECTION 6. Subchapter C, Chapter 1951, Occupations Code, is amended by adding Sections 1951.108 and 1951.109 to read as follows:

Sec. 1951.108. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs, functions, rules, and budget of the board;

(3) the results of the most recent formal audit of the board;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the

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attendance at the program occurs before or after the person qualifies for office.

Sec. 1951.109. BOARD COMMITTEES. (a) The board may appoint committees to assist the board with its functions under this chapter.

(b) Only a member of the board may serve as a member of a board committee.

No equivalent provision.

SECTION 7. Section 1951.154, Occupations Code, is amended to read as follows:

Sec. 1951.154. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate [~~define~~] the policymaking [~~respective~~] responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

SECTION 1.14. Section 1951.201, Occupations Code, is amended to read as follows:

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

(b) The department shall establish fees under this chapter in amounts reasonable and necessary to cover the costs of administering the department's programs and activities under this chapter.

SECTION 8. Section 1951.201, Occupations Code, is amended to read as follows:

Sec. 1951.201. SOLE LICENSING AUTHORITY; FEES. (a) The board is the sole authority in this state for licensing persons engaged in the business of structural pest control.

(b) The board shall establish fees under this chapter in amounts reasonable and necessary to cover the costs of administering this chapter.

SECTION 1.15. Section 1951.202, Occupations Code, is amended to read as follows:

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

SECTION 1.16. Section 1951.203, Occupations Code, is amended to read as follows:

Sec. 1951.203. STANDARDS AND CRITERIA FOR LICENSES. The department [~~board~~] shall develop standards and criteria for issuing:

- (1) a structural pest control business license to a person engaged in the business of structural pest control;
- (2) a certified commercial applicator's license to an individual engaged in the business of structural pest control;
- (3) a certified noncommercial applicator's license to an individual; and
- (4) a technician license to an individual.

SECTION 1.17. Sections 1951.204(a), (b), and (c), Occupations Code, are amended to read as follows:

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

- (1) the attendance of witnesses for examination under oath; and
- (2) the production for inspection and copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter.

(b) The commissioner [~~board~~], acting through the attorney general, may bring an action to enforce a

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subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

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

(1) Travis County; or

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

SECTION 1.18. Section 1951.205, Occupations Code, is amended to read as follows:

Sec. 1951.205. ENVIRONMENTAL RULES. (a) The department [~~board~~] shall adopt rules governing the methods and practices of structural pest control that the department [~~board~~] determines are necessary to protect the public's health and welfare and prevent adverse effects on human life and the environment.

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

SECTION 1.19. Section 1951.206, Occupations Code, is amended to read as follows:

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

(b) The department [~~board~~] may adopt rules restricting

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advertising or competitive bidding to prohibit false, misleading, or deceptive practices by a person regulated by the department under this chapter [~~board~~]. A rule adopted under this subsection may not:

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

SECTION 1.20. Section 1951.207, Occupations Code, is amended to read as follows:

Sec. 1951.207. **INSPECTION OF LICENSE HOLDERS.** (a) The department [~~board~~] by rule shall adopt a policy that:

- (1) requires a business holding a structural pest control business license to be inspected by a field inspector at least once:
 - (A) in the business's first year of operation; and
 - (B) every four [~~two~~] years after the first year of operation;
- (2) provides for additional inspections based on a schedule of risk-based inspections using the following criteria:
 - (A) the type and nature of the business;
 - (B) whether there has been a prior violation by the business;
 - (C) the inspection history of the business;
 - (D) any history of complaints involving the business;

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SECTION 9. Section 1951.207(a), Occupations Code, is amended to read as follows:

(a) The board by rule shall adopt a policy that:

- (1) requires a business holding a structural pest control business license to be inspected by a field inspector at least once:
 - (A) in the business's first year of operation; and
 - (B) every four [~~two~~] years after the first year of operation;
- (2) provides for additional inspections based on a schedule of risk-based inspections using the following criteria:
 - (A) the type and nature of the business;
 - (B) whether there has been a prior violation by the business;
 - (C) the inspection history of the business;
 - (D) any history of complaints involving the business;

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and

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

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

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

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

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

(A) ~~Department of Agriculture;~~

~~[(B) Texas] Department of State Health Services;~~

~~(B) [(C)] Texas Commission on Environmental Quality [Natural Resource Conservation Commission]; or~~

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

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

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

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and

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

(3) provides that the **executive director** may waive the inspection requirement on a case-by-case basis if an emergency arises or to accommodate complaint investigation schedules.

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SECTION 1.21. Section 1951.208, Occupations Code, is amended to read as follows:

Sec. 1951.208. MISAPPLICATION OF PESTICIDES.

(a) If an investigation shows that a misapplication of pesticides has occurred on the premises of a consumer, the department [~~board~~] shall immediately notify the consumer and the applicator of the misapplication.

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

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

SECTION 1.22. Section 1951.209, Occupations Code, is amended to read as follows:

Sec. 1951.209. AVAILABILITY OF CERTAIN INFORMATION. The department [~~board~~] may make available to the [~~Texas~~] Department of State Health Services under the occupational condition reporting program established under Chapter 84, Health and Safety Code, any information the department [~~board~~] receives concerning an exposure to a pesticide caused by a person licensed under this chapter that results in a medically verifiable illness. The department [~~board~~] and the

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executive commissioner of the Health and Human Services Commission [~~Texas Board of Health~~] shall adopt joint rules for making that information available to the [~~Texas~~] Department of State Health Services. The rules must require the department [~~board~~] to make that information available to an institution of higher education that conducts research in urban entomology, epidemiology, or other areas related to structural pest control.

SECTION 1.23. Section 1951.210, Occupations Code, is amended to read as follows:

Sec. 1951.210. PRETREATMENT INSPECTION SERVICE; FEES; LIABILITY. (a) The department [~~board~~] may provide a pretreatment inspection service to consumers. A pretreatment inspection is limited to a determination of whether there is an infestation of pests on the premises inspected.

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

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

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

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

(d) The department [~~board~~] is not liable for any damages

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that may arise as a result of an inspection made under this section that is subsequently found to be incorrect.

SECTION 1.24. Section 1951.211, Occupations Code, is amended to read as follows:

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

SECTION 1.25. Section 1951.212, Occupations Code, is amended to read as follows:

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

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

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SECTION 10. Section 1951.212, Occupations Code, is amended by amending Subsections (c), (d), and (e) and adding Subsections (f) and (g) to read as follows:

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integrated pest management in schools.

(c) The **department** ~~[board]~~ shall include in standards adopted under this section[-:

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

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

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

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

(2) the minimum amount of time a school district is required to wait before allowing students to enter an indoor or outdoor area in a school building or on school grounds for normal academic instruction or organized extracurricular activities after pesticides have been applied;

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

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

(5) the requirements for maintaining records of the application of pesticides ~~[board shall require that a pesticide may be applied to a school building or on school grounds only when students are not expected to be present for normal academic instruction or organized~~

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c) The **board** shall include in standards adopted under this section[-:

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

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

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

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

(2) the minimum amount of time a school district is required to wait before allowing students to enter an indoor or outdoor area in a school building or on school grounds for normal academic instruction or organized extracurricular activities after pesticides have been applied;

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

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

(5) the requirements for maintaining records of the application of pesticides ~~[board shall require that a pesticide may be applied to a school building or on school grounds only when students are not expected to be present for normal academic instruction or organized~~

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~~extracurricular activities for at least 12 hours after the application].~~

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

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

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

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

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

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

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

(2) the inspection history of the school district;

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

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

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~~extracurricular activities for at least 12 hours after the application].~~

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

(1) adopt an integrated pest management program that incorporates the standards established by the **board** under this section;

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

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

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

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

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

(2) the inspection history of the school district;

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

(4) any other factor determined by the **board** by rule.

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SECTION 1.26. Section 1951.251, Occupations Code, is amended to read as follows:

Sec. 1951.251. PUBLIC INTEREST INFORMATION.

(a) The department [~~board~~] shall prepare information of public interest describing the functions of the department under this chapter [~~board~~] and the procedures by which complaints are filed with and resolved by the department under this chapter [~~board~~].

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

No equivalent provision.

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No equivalent provision.

SECTION 11. Subchapter E, Chapter 1951, Occupations Code, is amended by adding Sections 1951.213, 1951.214, 1951.215, and 1951.216 to read as follows:

Sec. 1951.213. ADVISORY COMMITTEES. (a) The board may establish advisory committees to advise the board in administering this chapter.

(b) The board shall adopt rules governing:

(1) the purpose, role, responsibility, and goals of the committees;

(2) size and quorum requirements for the committees;

(3) qualification of members, which may include requirements for experience or geographic location;

(4) appointment procedures for the committees;

(5) terms of service;

(6) training requirements;

(7) a process to regularly evaluate the continuing need for each committee; and

(8) a requirement that the committees comply with Chapter 551, Government Code.

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Sec. 1951.214. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 1951.215. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Sec. 1951.216. COMPLIANCE WITH SUNSET

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SECTION 1.27. Section 1951.252, Occupations Code, is amended to read as follows:

Sec. 1951.252. COMPLAINTS. (a) The department [board] by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department [board] for the purpose of directing complaints to the department under this chapter [board].

The department [board] may provide for that notice:

- (1) on each license form, application, or written contract for services of a person regulated under this chapter;
- (2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or
- (3) in a bill for services provided by a person regulated under this chapter.

(b) The department [board] shall keep an information file about each complaint filed with the department under this chapter [board] that the department [board] has

RECOMMENDATIONS. (a) The board shall:

(1) comply with and implement the management action recommendations regarding the board adopted by the Sunset Advisory Commission on January 10, 2007, as a result of its review of the board; and

(2) report to the Sunset Advisory Commission not later than November 1, 2008, the information the Sunset Advisory Commission requires regarding the board's implementation of the recommendations under Subdivision (1).

(b) This section expires June 1, 2009.

SECTION 12. Section 1951.252, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) through (g) to read as follows:

b) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the

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authority to resolve.

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

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

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

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

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

(f) The commissioner may allow an authorized employee of the department to dismiss a complaint if an investigation demonstrates that:

(1) a violation did not occur; or

(2) the subject of the complaint is outside the department's jurisdiction under this chapter.

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complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition ~~[keep an information file about each complaint filed with the board that the board has authority to resolve].~~

(c) The agency shall periodically notify the complaint parties of the status of the complaint until final disposition ~~[If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint]~~ unless the notice would jeopardize an undercover investigation.

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

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

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

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

(f) The board may allow an authorized employee of the board to dismiss a complaint if an investigation demonstrates that:

(1) a violation did not occur; or

(2) the subject of the complaint is outside the board's jurisdiction.

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

SECTION 1.28. Section 1951.253, Occupations Code, is amended to read as follows:

Sec. 1951.253. PUBLIC PARTICIPATION. (a) The department [board] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the department [board] and to speak on any issue under the [board's] jurisdiction of the department under this chapter.

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

SECTION 1.29. Section 1951.254, Occupations Code, is amended to read as follows:

Sec. 1951.254. PUBLIC INFORMATION PROGRAM. (a) The department [board] shall establish a public information program as provided by this section and Sections 1951.453-1951.456 to inform the public about the practice and regulation of structural pest control.

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

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(g) An employee who dismisses a complaint under Subsection (f) shall report the dismissal to the board in a public meeting. The report must include a sufficient explanation of the reason the complaint was dismissed.

No equivalent provision.

SECTION 13. Section 1951.254(d), Occupations Code, is amended to read as follows:

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

(d) The public information program must:

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

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

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

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

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

(1) the pest control industry;

(2) chemicals used in structural pest control;

(3) general health and safety issues relating to structural pest control;

(4) precautions to take before, during, and after

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(d) The public information program must:

(1) include the adoption and distribution, in a manner that the board considers appropriate, of a standard complaint form; [~~and~~]

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

(3) inform applicants, license holders, and the public on the board's Internet website, in board brochures, and on any other available information resource about the board's enforcement process, including each step in the complaint investigation and resolution process, from initial filing through final appeal; and

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

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application;

(5) steps to take if a misapplication, including an underapplication or an overapplication, is suspected; and

(6) any other matters determined by the department [board].

(f) The information sheet must include:

(1) the names and telephone numbers of the department [board, the Department of Agriculture,] and the [Texas] Department of State Health Services;

(2) the telephone number of any pesticide hotline established by a state or federal agency or by a state university;

(3) a statement of a consumer's rights under Chapter 39, Business & Commerce Code, to cancel a home solicitation transaction; and

(4) information concerning the availability of any pretreatment inspection service that may be provided by the department [board] under Section 1951.210.

(g) The department [board] shall develop a sign to be posted in the area of an indoor treatment that contains:

(1) the date of the planned treatment; and

(2) any other information required by the department [board].

SECTION 1.30. Subchapter F, Chapter 1951, Occupations Code, is amended by adding Section 1951.255 to read as follows:

Sec. 1951.255. ENFORCEMENT INFORMATION. (a) The department shall make available to the public information about each final enforcement action taken by

SECTION 14. Subchapter F, Chapter 1951, Occupations Code, is amended by adding Section 1951.255 to read as follows:

Sec. 1951.255. ENFORCEMENT INFORMATION. (a) The board shall make available to the public information about each final enforcement action taken by the board

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the department against a person under this chapter. The department shall provide this information on its Internet website and in other appropriate publications.

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

SECTION 1.31. Section 1951.301(b), Occupations Code, is amended to read as follows:

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

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

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

SECTION 1.32. Section 1951.302, Occupations Code, is amended to read as follows:

Sec. 1951.302. CERTIFIED COMMERCIAL APPLICATOR'S LICENSE. The department [~~board~~] must determine that an individual is competent to use or supervise the use of a restricted-use pesticide or state-limited-use pesticide covered by the individual's certified commercial applicator's license.

SECTION 1.33. Section 1951.303(a), Occupations Code, is amended to read as follows:

(a) In this section, "incidental use situation" means a pesticide application, including treating wasps in an area adjacent to a utility meter, treating fire ants in a

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against a person. The board shall provide this information on its Internet website and in other appropriate publications.

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

No equivalent provision.

No equivalent provision.

No equivalent provision.

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transformer box, or the treating of ants by a janitor or clerical employee in a break area, that:

- (1) is on an occasional, isolated, site-specific basis;
- (2) is incidental to the performance of a primary duty that is not pest control by an employee; and
- (3) involves the use of general use pesticides after instruction, as provided by rules adopted by the department [~~board~~].

SECTION 1.34. Section 1951.304, Occupations Code, is amended to read as follows:

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

No equivalent provision.

SECTION 1.35. Section 1951.305, Occupations Code, is amended to read as follows:

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

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

No equivalent provision.

SECTION 1.36. Section 1951.306, Occupations Code, is amended to read as follows:

Sec. 1951.306. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. (a) The department [~~board~~] may waive any license requirement under this chapter for an applicant who holds a license

No equivalent provision.

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issued by another state that has license requirements substantially equivalent to those of this state.

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

(1) establishes residence in this state; and

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

SECTION 1.37. Section 1951.307, Occupations Code, is amended to read as follows:

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

SECTION 1.38. Section 1951.308(a), Occupations Code, is amended to read as follows:

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

SECTION 1.39. Section 1951.309, Occupations Code, is amended to read as follows:

Sec. 1951.309. FEE FOR INITIAL OR RENEWAL LICENSE. (a) An applicant for an initial or renewal structural pest control business license or for an initial or renewal endorsement of license under Section 1951.306 must submit with the person's application a fee in an amount established by department rule for:

(1) a [~~fee of not more than \$180, as determined by the~~

No equivalent provision.

No equivalent provision.

SECTION 15. Section 1951.309, Occupations Code, is amended to read as follows:

Sec. 1951.309. FEE FOR INITIAL OR RENEWAL LICENSE. (a) An applicant for an initial or renewal structural pest control business license or for an initial or renewal endorsement of license under Section 1951.306 must submit with the person's application a fee in an amount established by board rule for:

(1) a [~~fee of not more than \$180, as determined by the~~

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- ~~board, for each~~] license or endorsement; and
- (2) ~~[a fee of not more than \$84, as determined by the board, for]~~ a license for each technician the applicant employs.
- (b) An applicant for an initial or renewal certified applicator's license must deliver with the person's application a fee in an amount established by **department** rule for:
- (1) a ~~[fee of not more than \$112.50, as determined by the board, for each]~~ license; and
- (2) ~~[a fee of not more than \$84, as determined by the board, for]~~ a license for each technician the applicant employs.

SECTION 1.40. Section 1951.310, Occupations Code, is amended to read as follows:

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

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

(c) If the person files a renewal application with the **department** ~~[board]~~ later than the 30th day but not later than the 60th day after the date the person's license expires, the person must pay a ~~[late]~~ renewal fee that is equal to two times the normally required renewal fee [of \$75].

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- ~~board, for each~~] license or endorsement; and
- (2) ~~[a fee of not more than \$84, as determined by the board, for]~~ a license for each technician the applicant employs.
- (b) An applicant for an initial or renewal certified applicator's license must deliver with the person's application a fee in an amount established by **board** rule for:
- (1) a ~~[fee of not more than \$112.50, as determined by the board, for each]~~ license; and
- (2) ~~[a fee of not more than \$84, as determined by the board, for]~~ a license for each technician the applicant employs.

SECTION 16. Sections 1951.310(b) and (c), Occupations Code, are amended to read as follows:

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

(c) If the person files a renewal application with the **board** later than the 30th day but not later than the 60th day after the date the person's license expires, the person must pay a ~~[late]~~ renewal fee that is equal to two times the normally required renewal fee [of \$75].

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

SECTION 1.41. Section 1951.311, Occupations Code, is amended to read as follows:

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

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

SECTION 1.42. Sections 1951.312(a) through (d), Occupations Code, are amended to read as follows:

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

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

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SECTION 17. Section 1951.311, Occupations Code, is amended to read as follows:

Sec. 1951.311. REPLACEMENT LICENSE; FEE. The board shall issue to a license holder whose license has been lost or destroyed or whose name has been changed a replacement license if the license holder submits to the board:

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

No equivalent provision.

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custody, or control;

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

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

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

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

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

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

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

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

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

SECTION 1.43. Section 1951.313, Occupations Code, is amended to read as follows:

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

No equivalent provision.

SECTION 1.44. Section 1951.314, Occupations Code, is amended to read as follows:

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

No equivalent provision.

SECTION 1.45. Section 1951.351, Occupations Code, is amended to read as follows:

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

No equivalent provision.

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- (1) develop or approve a training program for licensed technicians and for applicants to become licensed technicians; and
- (2) require that an applicant for a technician license complete the training program.
- (b) The department [~~board~~] shall develop the educational and training materials for the training program with the Texas Agricultural Extension Service or any other institution of higher education. The department [~~board~~] shall publish and distribute, in conjunction with the Texas Agricultural Extension Service, the materials developed as a part of the training program.
- (c) The training program must include instruction in:
 - (1) recognition of pests and pest damage;
 - (2) pesticide labels and label comprehension;
 - (3) pesticide safety;
 - (4) environmental protection;
 - (5) procedures for the immediate reporting of spills and misapplications;
 - (6) application equipment and techniques;
 - (7) pesticide formulations and actions;
 - (8) emergency procedures and pesticide cleanup;
 - (9) state and federal law relating to structural pest control;
 - (10) basic principles of mathematics, chemistry, toxicology, and entomology;
 - (11) nonchemical pest control techniques, including biological, mechanical, and prevention techniques; and
 - (12) any other topic the department [~~board~~] considers necessary.

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

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

SECTION 1.46. Section 1951.352, Occupations Code, is amended to read as follows:

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

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

SECTION 1.47. Section 1951.353, Occupations Code, is amended to read as follows:

Sec. 1951.353. FEES RELATED TO TRAINING PROGRAMS. (a) The department [~~board~~] may charge a fee to a person to purchase or borrow materials developed for the technician training program under Section 1951.351. The department [~~board~~] shall set the

No equivalent provision.

SECTION 18. Section 1951.353(b), Occupations Code, is amended to read as follows:

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fee in an amount that will recover the costs of the program.

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

SECTION 1.48. Section 1951.401, Occupations Code, is amended to read as follows:

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

SECTION 1.49. Section 1951.402, Occupations Code, is amended to read as follows:

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

SECTION 1.50. Section 1951.403, Occupations Code, is amended to read as follows:

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

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

No equivalent provision.

No equivalent provision.

SECTION 19. Section 1951.403, Occupations Code, is amended to read as follows:

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

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category of examination to be taken. Except as provided by department [~~board~~] rule, an examination fee is not refundable.

SECTION 1.51. Section 1951.404, Occupations Code, is amended to read as follows:

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

SECTION 1.52. Section 1951.405, Occupations Code, is amended to read as follows:

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

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

(c) If requested in writing by a person who fails a

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examination to be taken. Except as provided by board rule, an examination fee is not refundable.

No equivalent provision.

No equivalent provision.

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licensing examination administered under this chapter, the department [~~board~~] shall provide to the person an analysis of the person's performance on the examination.

SECTION 1.53. Subchapter I, Chapter 1951, Occupations Code, is amended by adding Section 1951.406 to read as follows:

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

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

(2) procedures for administering the examinations; and

(3) the process for evaluating examinations in use.

(b) The policy must include:

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

(A) structural pest control;

(B) structural pest control education; and

(C) examination creation and validation;

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

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

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

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

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SECTION 20. Subchapter I, Chapter 1951, Occupations Code, is amended by adding Section 1951.406 to read as follows:

Sec. 1951.406. EXAMINATION POLICY. (a) The **board** shall develop a written policy governing licensing examinations under this subchapter that prescribes:

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

(2) procedures for administering the examinations; and

(3) the process for evaluating examinations in use.

(b) The policy must include:

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

(A) structural pest control;

(B) structural pest control education; and

(C) examination creation and validation;

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

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

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

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

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- (6) the number and type of questions for each examination; and
- (7) a requirement that the person responsible for examination development make periodic reports on examination issues to the **commissioner**.

SECTION 1.54. Section 1951.451, Occupations Code, is amended to read as follows:

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

- (1) the department's [~~board's~~] mailing address and telephone number; and
- (2) a statement that the department [~~board~~] has jurisdiction over individuals licensed under this chapter.

SECTION 1.55. Section 1951.452, Occupations Code, is amended to read as follows:

Sec. 1951.452. RECORDS OF LICENSE HOLDER.

- (a) The department [~~board~~] may require each license holder to make records, as prescribed by the department [~~board~~], of the license holder's use of pesticides.
- (b) Subject to Subsection (c), a record required under Subsection (a) shall be:
 - (1) maintained for at least two years on the license holder's business premises; and
 - (2) made available for inspection by the department [~~board~~] and its authorized agents during normal business hours.

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- (6) the number and type of questions for each examination; and
- (7) a requirement that the person responsible for examination development make periodic reports on examination issues to the **board**.

No equivalent provision.

No equivalent provision.

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(c) A certified noncommercial applicator shall maintain required records on the premises of the person's employer for at least two years. The records shall be made available for inspection by the department [~~board~~] and its authorized agents during the employer's normal operating hours.

SECTION 1.56. Sections 1951.456(a), (b), and (d), Occupations Code, are amended to read as follows:

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

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

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

SECTION 1.57. Section 1951.457(c), Occupations Code, is amended to read as follows:

(c) The department [~~board~~] may adopt rules to require the distribution of a pest control information sheet for an outdoor treatment other than an outdoor treatment described by this section if the department [~~board~~] determines that the distribution or posting, or both,

No equivalent provision.

No equivalent provision.

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would protect the public's health, safety, and welfare.

SECTION 1.58. Section 1951.501, Occupations Code, is amended to read as follows:

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

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

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

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

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

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

- (1) report regularly to the department [~~board~~] on matters

No equivalent provision.

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

SECTION 1.59. Section 1951.502, Occupations Code, is amended to read as follows:

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

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

SECTION 1.60. Sections 1951.503(a) and (b), Occupations Code, are amended to read as follows:

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

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

No equivalent provision.

No equivalent provision.

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SECTION 1.61. Sections 1951.504(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

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

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

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

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

No equivalent provision.

SECTION 1.62. Sections 1951.505(b) and (c), Occupations Code, are amended to read as follows:

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

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

No equivalent provision.

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SECTION 1.63. Subchapter K, Chapter 1951, Occupations Code, is amended by adding Section 1951.506 to read as follows:

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

(b) A license may be suspended under this section without notice or hearing on the complaint if:

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

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

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

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SECTION 21. Subchapter K, Chapter 1951, Occupations Code, is amended by adding Section 1951.506 to read as follows:

Sec. 1951.506. EMERGENCY SUSPENSION. (a) The board or a three-member panel of board members designated by the board shall temporarily suspend the license of a person licensed under this chapter if the board or panel determines from the evidence or information presented to it that continued practice by the person would constitute a continuing and imminent threat to the public welfare or environment.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

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

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

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

(d) A three-member panel of the board may meet by telephone conference call in accordance with Chapter 551, Government Code, to consider an emergency suspension under this section if the threat to the public

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SECTION 1.64. Section 1951.551, Occupations Code, is amended to read as follows:

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

SECTION 1.65. Section 1951.552(b), Occupations Code, is amended to read as follows:

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

(1) the seriousness of the violation, including:

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

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

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

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

SECTION 1.66. Section 1951.553, Occupations Code, is amended to read as follows:

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welfare or environment is imminent and it is impossible to convene the panel at one location in a timely manner.

SECTION 22. Section 1951.551, Occupations Code, is amended to read as follows:

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

No equivalent provision.

No equivalent provision.

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Sec. 1951.553. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner [~~executive director~~] determines that a violation has occurred, the commissioner [~~executive director~~] may issue a violation report:

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

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

(3) recommending the amount of the proposed penalty.

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

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

(1) a brief summary of the charges;

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

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

SECTION 1.67. Section 1951.554, Occupations Code, is amended to read as follows:

Sec. 1951.554. PENALTY TO BE PAID OR

No equivalent provision.

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HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice, the person may:

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

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

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

SECTION 1.68. Section 1951.555, Occupations Code, is amended to read as follows:

Sec. 1951.555. HEARING; DECISION BY COMMISSIONER [~~BOARD~~]. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the commissioner [~~board~~] shall set a hearing and give notice of the hearing.

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

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

No equivalent provision.

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- (1) determine that a violation occurred and impose a penalty; or
- (2) determine that a violation did not occur.
- (d) A proceeding under this section is subject to Chapter 2001, Government Code.

SECTION 1.69. Section 1951.556, Occupations Code, is amended to read as follows:

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

- (1) the findings of fact and conclusions of law, separately stated;
- (2) the amount of any administrative penalty imposed;
- (3) a statement of the person's right to judicial review of the commissioner's [~~board's~~] order; and
- (4) any other information required by law.

No equivalent provision.

SECTION 1.70. Section 1951.557, Occupations Code, is amended to read as follows:

Sec. 1951.557. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Not later than the 30th day after the date the commissioner's [~~board's~~] order becomes final, the person shall:

- (1) pay the administrative penalty; or
- (2) file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both.
- (b) Within the period prescribed by Subsection (a), a person who acts under Subsection (a)(2) may stay enforcement of the penalty by:

No equivalent provision.

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- (1) paying the penalty to the department [~~board~~] for placement in an escrow account;
 - (2) giving the department [~~board~~] a supersedeas bond in a form approved by the department [~~board~~] that:
 - (A) is for the amount of the penalty; and
 - (B) is effective until judicial review of the commissioner's [~~board's~~] order is final; or
 - (3) filing with the department [~~board~~] an affidavit stating that the person is financially unable to either pay the penalty or give the bond.
- (c) A person who fails to take action as provided by this section waives the right to judicial review of the commissioner's [~~board's~~] order.

SECTION 1.71. Section 1951.558, Occupations Code, is amended to read as follows:

Sec. 1951.558. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the department [~~board~~] may refer the matter to the attorney general for collection of the penalty.

SECTION 1.72. Section 1951.559(a), Occupations Code, is amended to read as follows:

- (a) If, after judicial review, the administrative penalty is reduced or is not upheld by the court, the department [~~board~~] shall:
 - (1) remit the appropriate amount, plus accrued interest, to the person against whom the penalty is imposed, if the person paid the penalty; or

No equivalent provision.

No equivalent provision.

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

SECTION 1.73. Section 1951.601, Occupations Code, is amended to read as follows:

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

No equivalent provision.

SECTION 1.74. Section 1951.602, Occupations Code, is amended to read as follows:

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

(b) If it appears that a person has violated or is threatening to violate this chapter or a rule, license, or order of the commissioner [~~board~~], the commissioner [~~board, or the executive director if authorized by the board,~~] may have a civil action instituted in a district court for:

- (1) injunctive relief to restrain the person from continuing the violation or threat of violation;
- (2) the assessment and recovery of a civil penalty under Subsection (a); or

No equivalent provision.

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(3) both injunctive relief and the civil penalty.

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

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

SECTION 1.75. Subchapter M, Chapter 1951, Occupations Code, is amended by adding Section 1951.604 to read as follows:

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

SECTION 1.76. Subchapter M, Chapter 1951, Occupations Code, is amended by adding Section 1951.605 to read as follows:

Sec. 1951.605. STOP USE ORDER. (a) If the department has reason to believe that a person licensed under this chapter is using or is in possession of a

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SECTION 23. Subchapter M, Chapter 1951, Occupations Code, is amended by adding Sections 1951.604 and 1951.605 to read as follows:

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

Sec. 1951.605. STOP USE ORDER. (a) If the board has reason to believe that a person licensed under this chapter is using or is in possession of a pesticide that is

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pesticide that is in violation of Chapter 76, Agriculture Code, the department may issue and enforce a written or printed order to stop the use of the pesticide. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order may not use the pesticide until the department determines that the pesticide:

- (1) is in compliance with this chapter; or
- (2) does not present a hazard to the public health, safety, or welfare.

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

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

SECTION 1.77. The following provisions of the Occupations Code are repealed:

- (1) Section 1951.002(2);
- (2) Section 1951.007;
- (3) Sections 1951.106(b) and (c);
- (4) Section 1951.107; and
- (5) Subchapter D, Chapter 1951.

ARTICLE 2. CONFORMING AMENDMENTS

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

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in violation of Chapter 76, Agriculture Code, the board may issue and enforce a written or printed order to stop the use of the pesticide. The board shall present the order to the owner or custodian of the pesticide. The person who receives the order may not use the pesticide until the board determines that the pesticide:

- (1) is in compliance with this chapter; or
- (2) does not present a hazard to the public health, safety, or welfare.

(b) This section does not limit the right of the board to proceed as authorized by another section of this chapter, including in the assessment of an administrative penalty under this chapter.

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

SECTION 24. The following provisions of the Occupations Code are repealed:

- (1) Section 1951.103(c);
- (2) Section 1951.158;
- (3) Section 1951.212(b);
- (4) Section 1951.254(b); and
- (5) Section 1951.351(d).

No equivalent provision.

No equivalent provision.

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(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;

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

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

(11) [~~(12)~~] one representative of the oil and gas industry

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appointed by the Texas Mid-Continent Oil and Gas Association.

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

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

- (1) Department of Agriculture;
- (2) Texas Alcoholic Beverage Commission;
- (3) Texas Appraiser Licensing and Certification Board;
- (4) Texas Board of Architectural Examiners;
- (5) Texas Board of Chiropractic Examiners;
- (6) Comptroller of Public Accounts;
- (7) Court Reporters Certification Board;
- (8) State Board of Dental Examiners;
- (9) Texas State Board of Examiners of Dietitians;
- (10) Texas Funeral Service Commission;
- (11) Department of State Health Services;
- (12) Department of Aging and Disability Services;
- (13) Texas Board of Professional Land Surveying;
- (14) Texas Department of Licensing and Regulation;
- (15) Texas State Board of Examiners of Marriage and Family Therapists;
- (16) Texas [~~State Board of~~] Medical Board [~~Examiners~~];
- (17) Midwifery Board;
- (18) Texas Commission on Environmental Quality;
- (19) Board of Nurse Examiners;
- (20) Texas Board of Occupational Therapy Examiners;
- (21) Texas Optometry Board;

No equivalent provision.

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- (22) Parks and Wildlife Department;
- (23) Texas State Board of Examiners of Perfusionists;
- (24) Texas State Board of Pharmacy;
- (25) Texas Board of Physical Therapy Examiners;
- (26) Texas State Board of Plumbing Examiners;
- (27) Texas State Board of Podiatric Medical Examiners;
- (28) Polygraph Examiners Board;
- (29) Texas Private Security Board;
- (30) Texas State Board of Examiners of Professional Counselors;
- (31) Texas Board of Professional Engineers;
- (32) Department of Family and Protective Services;
- (33) Texas State Board of Examiners of Psychologists;
- (34) Texas State Board of Public Accountancy;
- (35) Department of Public Safety of the State of Texas;
- (36) Public Utility Commission of Texas;
- (37) Railroad Commission of Texas;
- (38) Texas Real Estate Commission;
- (39) State Bar of Texas;
- (40) Texas State Board of Social Worker Examiners;
- (41) State Board of Examiners for Speech-Language Pathology and Audiology;
- (42) ~~Texas Structural Pest Control Board;~~
- ~~(43)~~ Board of Tax Professional Examiners;
- ~~(43)~~ ~~(44)~~ Secretary of State;
- ~~(44)~~ ~~(45)~~ Supreme Court of Texas;
- ~~(45)~~ ~~(46)~~ Texas Transportation Commission;
- ~~(46)~~ ~~(47)~~ State Board of Veterinary Medical Examiners;
- ~~(47)~~ ~~(48)~~ Texas Ethics Commission;

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~~(48)~~ ~~[(49)]~~ Advisory Board of Athletic Trainers;
~~(49)~~ ~~[(50)]~~ State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
~~(50)~~ ~~[(51)]~~ Texas Board of Licensure for Professional Medical Physicists;
~~(51)~~ ~~[(52)]~~ Texas Department of Insurance;
~~(52)~~ ~~[(53)]~~ Texas Board of Orthotics and Prosthetics;
~~(53)~~ ~~[(54)]~~ savings and mortgage lending ~~[loan]~~ commissioner;
~~(54)~~ ~~[(55)]~~ Texas Juvenile Probation Commission; and
~~(55)~~ ~~[(56)]~~ Texas Lottery Commission under Chapter 466, Government Code.

SECTION 2.03. Section 2054.352(a), Government Code, is amended to read as follows:

- (a) The following licensing entities shall participate in the system established under Section 2054.353:
- (1) Texas Board of Chiropractic Examiners;
 - (2) Court Reporters Certification Board;
 - (3) State Board of Dental Examiners;
 - (4) Texas Funeral Service Commission;
 - (5) Texas Board of Professional Land Surveying;
 - (6) Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~;
 - (7) Board of Nurse Examiners;
 - (8) Texas Optometry Board;
 - (9) Department of Agriculture, for licenses issued under Chapter 1951, Occupations Code ~~[Texas Structural Pest Control Board]~~;
 - (10) Texas State Board of Pharmacy;
 - (11) Executive Council of Physical Therapy and

No equivalent provision.

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Occupational Therapy Examiners;
(12) Texas State Board of Plumbing Examiners;
(13) Texas State Board of Podiatric Medical Examiners;
(14) Board of Tax Professional Examiners;
(15) Polygraph Examiners Board;
(16) Texas State Board of Examiners of Psychologists;
(17) State Board of Veterinary Medical Examiners;
(18) Texas Real Estate Commission;
(19) Texas Appraiser Licensing and Certification Board;
(20) Texas Department of Licensing and Regulation;
(21) Texas State Board of Public Accountancy;
(22) State Board for Educator Certification;
(23) Texas Board of Professional Engineers;
(24) Department of State Health Services;
(25) Texas Board of Architectural Examiners;
(26) Texas Racing Commission;
(27) Commission on Law Enforcement Officer Standards and Education; and
(28) Texas Private Security Board.

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

ARTICLE 3. TRANSITION AND EFFECTIVE DATE

SECTION 3.01. (a) The Texas Structural Pest Control Board is abolished but continues in existence until March 1, 2008, for the sole purpose of transferring obligations, property, full-time equivalent positions, rights, powers, and duties to the Department of Agriculture. The

No equivalent provision.

No equivalent provision.

No equivalent provision.

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Department of Agriculture assumes all of the obligations, property, full-time equivalent positions, rights, powers, and duties of the Texas Structural Pest Control Board, as it exists immediately before the effective date of this Act. All unexpended funds appropriated to the Texas Structural Pest Control Board are transferred to the Department of Agriculture. The transfer of the obligations, property, full-time equivalent positions, rights, powers, and duties of the Texas Structural Pest Control Board to the Department of Agriculture must be completed not later than March 1, 2008.

(b) All rules of the Texas Structural Pest Control Board are continued in effect as rules of the Department of Agriculture until superseded by a rule of the Department of Agriculture. A certificate, license, or permit issued by the Texas Structural Pest Control Board is continued in effect as provided by the law in effect immediately before the effective date of this Act. A complaint, investigation, contested case, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act. An inspection or other activity conducted by the Texas Structural Pest Control Board is considered to be an inspection or activity conducted by the Department of Agriculture.

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

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

(b) Not later than July 1, 2007, the Texas Structural Pest Control Board shall request that the comptroller grant the Department of Agriculture inquiry-only security access to the uniform statewide accounting system, the state property accounting system, the uniform statewide payroll system, and the human resources information system for the board. The Department of Agriculture and the comptroller may coordinate implementation of this section.

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

SECTION 3.03. The change in law made by this Act with respect to conduct that is grounds for imposition of a disciplinary sanction, including an emergency suspension or a cease and desist order, applies only to

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No equivalent provision.

SECTION 25. Same as House version.

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conduct that occurs on or after September 1, 2007. Conduct that occurs before September 1, 2007, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

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

- (1) Section 1951.105, Occupations Code, as amended by this Act;
- (2) Section 1951.207(a)(2), Occupations Code, as amended by this Act;
- (3) Section 1951.212(d), Occupations Code, as amended by this Act; and
- (4) Section 1951.406, Occupations Code, as added by this Act.

SECTION 3.05. Not later than September 1, 2008, the commissioner of agriculture shall appoint the initial members of the structural pest control advisory committee under Section 1951.101, Occupations Code, as amended by this Act.

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

No equivalent provision.

No equivalent provision.

No equivalent provision.

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No equivalent provision.

SECTION 26. The changes in law made by this Act by the enactment of Section 1951.108, Occupations Code, and the amendment of Sections 1951.103 and 1951.106, Occupations Code, regarding the prohibitions on, qualifications of, and training for members of the Texas Structural Pest Control Board do not affect the entitlement of a member serving on the board immediately before September 1, 2007, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law described by this section apply only to a member appointed on or after September 1, 2007.

No equivalent provision.

SECTION 27. Not later than March 1, 2008, the Texas Structural Pest Control Board shall adopt rules and policies required under:

- (1) Section 1951.207(a)(2), Occupations Code, as amended by this Act;
- (2) Section 1951.212(d), Occupations Code, as amended by this Act; and
- (3) Section 1951.406, Occupations Code, as added by this Act.

No equivalent provision.

SECTION 28. Not later than March 1, 2008, each school district shall provide the name, address, telephone number, and e-mail address of the district's integrated pest management coordinator to the Texas Structural Pest Control Board as required by Section 1951.212(e),

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SECTION 3.07. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.
(b) Section 3.02 of this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 3.02 does not take effect.

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Occupations Code, as amended by this Act.

SECTION 29. This Act takes effect September 1, 2007.

CONFERENCE