

By: Hegar

S.B. No. 768

A BILL TO BE ENTITLED

AN ACT

relating to exemptions from the Texas Structural Pest Control Act;
providing penalties.

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

SECTION 1. Subchapter B, Chapter 1951, Occupations Code, is amended by adding Sections 1951.058, 1951.059, and 1951.060 to read as follows:

Sec. 1951.058. ACTIVITIES NOT INVOLVING PESTICIDES. When performed without the use of a pesticide, this chapter does not apply to the:

(1) use of a raptor to control or relocate other birds;

(2) physical removal of pests or the habitat of pests while cleaning a chimney;

(3) use of a live trap to remove an animal from the premises of a residence, agricultural operation, or business structure;

(4) removal by mechanical means of weeds or other obstructing vegetation from a sewer, drainage system, body of water, or similar area; or

(5) installation, maintenance, or use of a nonpesticidal barrier to remove or prevent infestation by nuisance animals.

Sec. 1951.059. CONSULTING SERVICES. This chapter does not apply to a person who, as an independent consultant, provides

1 information to a restaurant, medical facility, or food or meal
2 delivery operation regarding general pest control methods and
3 general or specific pest control products or services and who does
4 not:

- 5 (1) identify specific pests or infestations;
- 6 (2) perform, agree to perform, or bid on a job to
7 perform pest control services; or
- 8 (3) supply, agree to supply, or bid on a job to supply
9 pest control products.

10 Sec. 1951.060. ACTIVITIES INVOLVING MINIMAL RISK OF HARM.

11 (a) The department by rule may exempt an activity from all or part
12 of the requirements of this chapter if the department determines
13 that the activity presents only a minimal risk of harm to the
14 health, safety, and welfare of the public, the person performing
15 the activity, pets and other domesticated animals, and the
16 environment.

17 (b) A business that performs an activity exempted from
18 regulation under this section and that is not otherwise required to
19 hold a license issued under this chapter shall provide to each
20 customer a written notice, as prescribed by department rule, that:

- 21 (1) informs the customer of the customer's rights
22 under the Deceptive Trade Practices-Consumer Protection Act
23 (Subchapter E, Chapter 17, Business & Commerce Code);
- 24 (2) provides contact information for the consumer
25 protection division of the office of the attorney general; and
- 26 (3) contains other information required by the
27 department.

1 (c) Failure to provide the notice required by Subsection (b)
2 is a violation of this chapter. The department may impose an
3 administrative penalty or take any other enforcement action
4 provided by this chapter or the Agriculture Code to deter,
5 restrain, or punish a person who violates this section. An
6 enforcement action by the department under this section is in
7 addition to remedies and penalties provided by the Deceptive Trade
8 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
9 Business & Commerce Code).

10 SECTION 2. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.