

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 and 1951.059 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. ACTIVITIES INVOLVING MINIMAL RISK OF HARM.

(a) The department by rule may exempt an activity from all or part

1 of the requirements of this chapter, other than a requirement under
2 Section 1951.212, if the department determines that the activity
3 presents only a minimal risk of harm to the health, safety, and
4 welfare of the public, the person performing the activity, pets and
5 other domesticated animals, and the environment.

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

10 (1) informs the customer of the customer's rights
11 under the Deceptive Trade Practices-Consumer Protection Act
12 (Subchapter E, Chapter 17, Business & Commerce Code);

13 (2) provides contact information for the consumer
14 protection division of the office of the attorney general; and

15 (3) contains other information required by the
16 department.

17 (c) Failure to provide the notice required by Subsection (b)
18 is a violation of this chapter. The department may impose an
19 administrative penalty or take any other enforcement action
20 provided by this chapter or the Agriculture Code to deter,
21 restrain, or punish a person who violates this section. An
22 enforcement action by the department under this section is in
23 addition to remedies and penalties provided by the Deceptive Trade
24 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
25 Business & Commerce Code).

26 SECTION 2. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 768

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 768 passed the Senate on April 9, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 768 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 143, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor