

1-1 By: Hegar S.B. No. 768
1-2 (In the Senate - Filed February 10, 2009; March 4, 2009,
1-3 read first time and referred to Committee on Agriculture and Rural
1-4 Affairs; March 26, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 March 26, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 768 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to exemptions from the Texas Structural Pest Control Act;
1-11 providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 1951, Occupations Code, is
1-14 amended by adding Sections 1951.058, 1951.059, and 1951.060 to read
1-15 as follows:

1-16 Sec. 1951.058. ACTIVITIES NOT INVOLVING PESTICIDES. When
1-17 performed without the use of a pesticide, this chapter does not
1-18 apply to the:

1-19 (1) use of a raptor to control or relocate other birds;

1-20 (2) physical removal of pests or the habitat of pests
1-21 while cleaning a chimney;

1-22 (3) use of a live trap to remove an animal from the
1-23 premises of a residence, agricultural operation, or business
1-24 structure;

1-25 (4) removal by mechanical means of weeds or other
1-26 obstructing vegetation from a sewer, drainage system, body of
1-27 water, or similar area; or

1-28 (5) installation, maintenance, or use of a
1-29 nonpesticidal barrier to remove or prevent infestation by nuisance
1-30 animals.

1-31 Sec. 1951.059. CONSULTING SERVICES. This chapter does not
1-32 apply to a person who, as an independent consultant, provides
1-33 information to a restaurant, medical facility, or food or meal
1-34 delivery operation regarding general pest control methods and
1-35 general or specific pest control products or services and who does
1-36 not:

1-37 (1) identify specific pests or infestations;

1-38 (2) perform, agree to perform, or bid on a job to
1-39 perform pest control services; or

1-40 (3) supply, agree to supply, or bid on a job to supply
1-41 pest control products.

1-42 Sec. 1951.060. ACTIVITIES INVOLVING MINIMAL RISK OF HARM.

1-43 (a) The department by rule may exempt an activity from all or part
1-44 of the requirements of this chapter if the department determines
1-45 that the activity presents only a minimal risk of harm to the
1-46 health, safety, and welfare of the public, the person performing
1-47 the activity, pets and other domesticated animals, and the
1-48 environment.

1-49 (b) A business that performs an activity exempted from
1-50 regulation under this section and that is not otherwise required to
1-51 hold a license issued under this chapter shall provide to each
1-52 customer a written notice, as prescribed by department rule, that:

1-53 (1) informs the customer of the customer's rights
1-54 under the Deceptive Trade Practices-Consumer Protection Act
1-55 (Subchapter E, Chapter 17, Business & Commerce Code);

1-56 (2) provides contact information for the consumer
1-57 protection division of the office of the attorney general; and

1-58 (3) contains other information required by the
1-59 department.

1-60 (c) Failure to provide the notice required by Subsection (b)
1-61 is a violation of this chapter. The department may impose an
1-62 administrative penalty or take any other enforcement action
1-63 provided by this chapter or the Agriculture Code to deter,

2-1 restrain, or punish a person who violates this section. An
2-2 enforcement action by the department under this section is in
2-3 addition to remedies and penalties provided by the Deceptive Trade
2-4 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
2-5 Business & Commerce Code).

2-6 SECTION 2. This Act takes effect immediately if it receives
2-7 a vote of two-thirds of all the members elected to each house, as
2-8 provided by Section 39, Article III, Texas Constitution. If this
2-9 Act does not receive the vote necessary for immediate effect, this
2-10 Act takes effect September 1, 2009.

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