

OCCUPATIONS CODE

TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE B. PRACTICES RELATED TO HEALTH AND SAFETY

CHAPTER 1951. STRUCTURAL PEST CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1951.001. SHORT TITLE. This chapter may be cited as the Texas Structural Pest Control Act.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.002. DEFINITIONS. In this chapter:

(1) "Apartment building" means a building that contains at least two dwelling units that are rented primarily for nontransient permanent dwelling purposes, with rental paid by intervals of one week or longer.

(2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.79(1), eff. September 1, 2007.

(3) "Certified applicator" means a certified commercial applicator or a certified noncommercial applicator.

(4) "Certified commercial applicator" means a person who holds a certified commercial applicator's license.

(5) "Certified noncommercial applicator" means a person who holds a certified noncommercial applicator's license.

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

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

(6) "Day-care center" has the meaning assigned by Section [42.002](#), Human Resources Code.

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

(7) "Device" means an instrument or contrivance that is designed for trapping, destroying, repelling, or mitigating the effects of a pest or another form of plant or animal life, other than human beings or bacteria, viruses, or other microorganisms that live on or in human beings or animals. The term does not

include:

(A) a firearm; or

(B) equipment used for the application of pesticides that is sold separately from a device.

(8) "Hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(9) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(10) "Nursing home" means an institution as that term is defined by Section 242.002, Health and Safety Code.

(11) "Person" means an individual, firm, partnership, corporation, association, or other organization, any combination of those persons, or any type of business entity.

(12) "Restricted-use pesticide" means a pesticide classified for restricted or limited use by the administrator of the United States Environmental Protection Agency.

(13) "School" means a:

(A) public primary or secondary school; or

(B) private or parochial primary or secondary school that is accredited by an accreditation body that is a member of the Texas Private School Accreditation Commission.

(14) "State-limited-use pesticide" means a pesticide classified for restricted or limited use by the commissioner.

(15) "Structural pest control business license" means a license issued under Section 1951.301.

(16) "Technician" means a person who holds a license under this chapter and who, under direct supervision of a certified noncommercial applicator or, as an employee of a holder of a structural pest control business license, performs supervised pesticide applications, maintains or uses structural pest control devices, makes sales presentations, or identifies pest infestation or damage. The term does not include a person whose duties are solely clerical or are otherwise completely disassociated with pest control.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.01,

eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.79(1), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.02, eff. September 1, 2009.

Sec. 1951.0021. STRUCTURAL PEST CONTROL SERVICE. The Structural Pest Control Service is a service of the department responsible for the regulation and licensing of persons engaged in the business of structural pest control. The service is established to provide exceptional customer service to the public and the industry, enhance the educational and professional standards of license holders, and ensure the health, safety, and welfare of the public.

Added by Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.02, eff. September 1, 2007.

Sec. 1951.003. BUSINESS OF STRUCTURAL PEST CONTROL.

(a) In this chapter, a person is engaged in the "business of structural pest control" if the person performs, offers to perform, or advertises for or solicits the person's performance of any of the following services for compensation, including services performed as a part of the person's employment:

(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of:

(A) arthropods, including insects, spiders, mites, ticks, and related pests, wood-infesting organisms, rodents, weeds, nuisance birds, and any other obnoxious or undesirable animals that may infest households, railroad cars, ships, docks, trucks, airplanes, or other structures or their contents; or

(B) pests or diseases of trees, shrubs, or other plantings in a park or adjacent to a residence, business establishment, industrial plant, institutional building, or street;

(2) making oral or written inspection reports,

recommendations, estimates, or bids with respect to an infestation described by Subdivision (1); or

(3) making contracts, or submitting bids based on an inspection for services or performing services designed to prevent, control, or eliminate an infestation described by Subdivision (1) by the use of insecticides, pesticides, rodenticides, fumigants, allied chemicals or substances, or mechanical devices.

(b) A person is not engaged in the business of structural pest control if the person is a clerical employee or a manual laborer and the person does not:

(1) identify pests;

(2) make inspections, recommendations, estimates, bids, or contracts;

(3) provide estimates, bids, or contracts based on an inspection; or

(4) apply insecticides, pesticides, rodenticides, fumigants, allied chemicals, or other related substances regulated by the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.03, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 332 (H.B. 2742), Sec. 1, eff. June 17, 2011.

Sec. 1951.004. DIRECT SUPERVISION. In this chapter, a pesticide is applied under direct supervision if the application is made by a person acting under the instructions and control of a certified commercial applicator responsible for the actions of the person and available if needed for consultation or assistance. The certified commercial applicator is not required to be physically present at the time and place of the pesticide application.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.005. LOCAL REGULATION OF PESTICIDE SALE OR USE.

(a) Except as provided by this section, a municipality or other political subdivision of this state may not adopt an ordinance or

rule regarding pesticide sale or use.

(b) This section does not limit the authority of a municipality or county to:

(1) encourage locally approved and provided educational material concerning a pesticide;

(2) zone for the sale or storage of pesticide products;

(3) adopt fire or building regulations, including regulations governing the storage of pesticide products or governing fumigation and thermal insecticidal fogging operations, as preventative measures to protect the public and emergency services personnel from an accident or emergency involving pesticide products;

(4) provide or designate sites for the disposal of pesticide products;

(5) route hazardous materials; or

(6) regulate discharge to sanitary sewer systems.

(c) A municipality or other political subdivision may take any action otherwise prohibited by this section to:

(1) comply with any federal or state requirements;

(2) avoid a federal or state penalty or fine; or

(3) attain or maintain compliance with federal or state environmental standards, including state water quality standards.

(d) This section does not affect Subchapter G, Chapter 76, Agriculture Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.006. APPLICABILITY OF FEES TO GOVERNMENT EMPLOYEES. A person employed by a governmental entity is not exempt from a fee imposed under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.007. APPLICABILITY OF AGRICULTURE CODE LICENSING PROVISIONS. A provision of the Agriculture Code that applies generally to licensing or regulatory programs administered by the department, including a provision that refers generally to

licensing or regulatory programs under the Agriculture Code, applies to this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 7.04, eff. September 1, 2009.

SUBCHAPTER B. EXEMPTIONS

Sec. 1951.051. INDIVIDUAL PERFORMING PEST CONTROL WORK ON OWN OR EMPLOYER'S PREMISES. (a) An individual who does not hold a license under this chapter may use insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices designed to prevent, control, or eliminate pest infestations unless:

- (1) that use is prohibited by state law or rule;
- (2) that use is prohibited by rule of the United States Environmental Protection Agency; or
- (3) the substance used is labeled as a restricted-use pesticide or a state-limited-use pesticide.

(b) An individual may act under Subsection (a) only on premises:

- (1) owned by the individual;
- (2) in which the individual owns a partnership or joint venture interest; or
- (3) of a person who employs the individual primarily to perform services other than pest control.

(c) Subsection (b)(3) does not apply to:

- (1) an apartment building;
- (2) a day-care center;
- (3) a hospital;
- (4) a nursing home;
- (5) a hotel, motel, or lodge;
- (6) a warehouse;
- (7) a food-processing establishment;
- (8) a facility owned by the state or a political subdivision of the state, except as provided by Section [1951.303\(b\)\(1\)](#); or
- (9) a school.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.052. PERSON PERFORMING PEST CONTROL WORK ON PERSON'S DWELLING. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person who performs pest control work on property that the person owns or leases as the person's dwelling.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.053. PERSON PERFORMING PEST CONTROL WORK OTHERWISE REGULATED BY DEPARTMENT. (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 holds a commercial or noncommercial applicator license from the department and issued under Chapter 76, Agriculture Code, 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, 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, that covers pest control work; and

(D) complies with annual continuing education required by the department.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 884, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.03, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.05, eff. September 1, 2009.

Sec. 1951.054. PERSON PERFORMING PEST CONTROL WORK ON AGRICULTURAL LAND. (a) Except as provided by Sections 1951.212 and 1951.457(c), this chapter does not apply to a person or the person's employee who is engaged in the business of agriculture or aerial application or custom application of pesticides to agricultural lands.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.055. PERSON USING PEST CONTROL CHEMICALS FOR HOUSEHOLD USE. (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 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.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.04, eff. September 1, 2007.

Sec. 1951.056. BEEKEEPERS. (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 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.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.05, eff. September 1, 2007.

Sec. 1951.057. FALCONERS. (a) This chapter does not apply to a person engaged in falconry, as defined by Section 49.001, Parks and Wildlife Code, who:

(1) is the holder of a falconer's permit as provided by Chapter 49, Parks and Wildlife Code; and

(2) uses a raptor to control or relocate other birds.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 325 (H.B. 693), Sec. 1, eff. June 19, 2009.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 762 (S.B. 768), Sec. 1, eff. June 19, 2009.

Sec. 1951.059. ACTIVITIES INVOLVING MINIMAL RISK OF HARM.

(a) The department by rule may exempt an activity from all or part of the requirements of this chapter, other than a requirement under Section 1951.212, if the department determines that the activity presents only a minimal risk of harm to the health, safety, and welfare of the public, the person performing the activity, pets and other domesticated animals, and the environment.

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

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 762 (S.B. 768), Sec. 1, eff. June 19, 2009.

SUBCHAPTER C. STRUCTURAL PEST CONTROL ADVISORY COMMITTEE

Sec. 1951.101. COMMITTEE MEMBERSHIP. (a) The committee consists of 11 members appointed by the commissioner as follows:

(1) one member who is an employee of a school district and associated with a school integrated pest management program;

(2) three members who represent the public;

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

(4) three members who represent the interests of structural pest control operators and who are appointed based on recommendations provided by a trade association of operators;

(5) one member who represents the interests of consumers;

(6) the commissioner of state health services or the commissioner's designee; and

(7) one member who is a structural pest control operator with experience in natural, organic, or holistic pest control.

(b) Members of the committee serve staggered four-year terms. The terms of five or six members, as appropriate, expire on February 1 of each odd-numbered year.

(c) Service on the committee by a state officer or employee is an additional duty of the member's office or employment.

(d) Appointments to the committee shall be made without

regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.07, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.06, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 718 (H.B. 3567), Sec. 1, eff. September 1, 2013.

Sec. 1951.102. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the committee 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 control;

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

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.08, eff. September 1, 2007.

Sec. 1951.103. MEMBERSHIP RESTRICTIONS. (a) In this section, "Texas trade association" means a 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:

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

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of pest control.

(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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.09, eff. September 1, 2007.

Sec. 1951.104. DUTIES OF COMMITTEE. (a) 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;

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

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

(F) other issues affecting the practice of structural pest control.

(b) Before the department proposes a rule for adoption, the department must submit the proposed rule to the committee to provide advice as described by Subsection (a)(2)(C). The committee shall:

(1) vote on whether to recommend that the rule be proposed for adoption; and

(2) provide the recommendation under Subdivision (1) to the department not later than the 60th day after the date the proposed rule was submitted to the committee for review.

(c) For the purpose of advising the department on rules related to enforcement under Subsection (a), on request of the presiding officer of the committee, the department shall allow the committee to review a completed disciplinary investigation file.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.10, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1069 (H.B. 3243), Sec. 1, eff. September 1, 2017.

Sec. 1951.105. RULES GOVERNING COMMITTEE; COMMITTEE MEETINGS. (a) The department shall adopt rules for the operation of the committee, including rules governing:

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

(2) the 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.

(b) The committee shall:

(1) at the first meeting of each year, elect from the committee's members a presiding officer and an assistant presiding officer to serve a term of one year;

(2) meet quarterly;

(3) operate under Robert's Rules of Order; and

(4) record the minutes of each meeting.

(c) The rules adopted under Subsection (a) must provide that the presiding officer of the committee:

(1) is responsible for setting an agenda for each committee meeting; and

(2) may add an item to an agenda on request by the department or commissioner.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.07, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 1069 (H.B. 3243), Sec. 2, eff. September 1, 2017.

Sec. 1951.106. APPLICABILITY OF OTHER LAW TO COMMITTEE.

(a) Section 2110.008, Government Code, does not apply to the committee.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.79(3), eff. September 1, 2007.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 890, Sec. 1.79(3), eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.12, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.13, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec.

1.79(3), eff. September 1, 2007.

SUBCHAPTER E. POWERS AND DUTIES OF DEPARTMENT RELATING TO
STRUCTURAL PEST CONTROL

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

(b) The department, with the advice of the committee, 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.15, eff. September 1, 2007.

Sec. 1951.203. STANDARDS AND CRITERIA FOR LICENSES. The department, with the advice of the committee, 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.17, eff. September 1, 2007.

Sec. 1951.204. SUBPOENA AUTHORITY. (a) As part of an investigation under this chapter, the commissioner 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, acting through the attorney general, may bring an action to enforce a 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.

(d) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.18, eff. September 1, 2007.

Sec. 1951.205. ENVIRONMENTAL RULES. (a) The department, with the advice of the committee, shall adopt rules as authorized under this chapter governing the methods and practices of structural pest control that the department determines are necessary to protect the public's health and welfare and prevent adverse effects on human life and the environment. Each rule adopted must cite the section of this chapter that authorizes the rule.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.19, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.08, eff. September 1, 2009.

Sec. 1951.206. RULES RESTRICTING ADVERTISING OR COMPETITIVE

BIDDING. (a) Except as provided by Subsection (b), the department may not adopt a rule restricting advertising or competitive bidding by a person subject to regulation by the department under this chapter.

(b) The department may adopt rules restricting advertising or competitive bidding to prohibit false, misleading, or deceptive practices by a person subject to regulation by the department under this chapter. 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.

(c) Subsection (b)(4) does not prohibit the department from adopting a rule regulating the use of the name of a business or license holder in an advertisement for a structural pest control business.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.20, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 717 (H.B. 3566), Sec. 1, eff. June 14, 2013.

Sec. 1951.207. INSPECTION OF LICENSE HOLDERS.

(a) The department by rule shall adopt a policy that requires a business holding a structural pest control business license to be inspected by a field inspector at least once:

- (1) in the business's first year of operation; and
- (2) every four years after the first year of operation.

(b) The department 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 State Health Services;

(B) Texas Commission on Environmental Quality;

or

(C) 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.21, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.09, eff. September 1, 2009.

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 shall immediately notify the consumer and the applicator of the misapplication.

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

(1) certified applicator;

(2) physician;

(3) person holding a structural pest control business license;

(4) technician;

(5) consumer; or

(6) state agency.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.22, eff. September 1, 2007.

Sec. 1951.209. AVAILABILITY OF CERTAIN INFORMATION. The department may make available to the Department of State Health Services under the occupational condition reporting program established under Chapter 84, Health and Safety Code, any information the department receives concerning an exposure to a pesticide caused by a person licensed under this chapter that results in a medically verifiable illness. The department and the executive commissioner of the Health and Human Services Commission shall adopt joint rules for making that information available to the Department of State Health Services. The rules must require the department 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. Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.23, eff. September 1, 2007.

Sec. 1951.210. PRETREATMENT INSPECTION SERVICE; FEES; LIABILITY. (a) The department 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 may make available an inspector employed by the department 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 shall charge a fee for a pretreatment inspection in an amount sufficient to pay the cost of providing the service.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.24, eff. September 1, 2007.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.25, eff. September 1, 2007.

Sec. 1951.212. INTEGRATED PEST MANAGEMENT PROGRAMS FOR SCHOOL DISTRICTS. (a) The department 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 shall use the structural pest control advisory committee to assist the department 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 integrated pest management in schools.

(c) The department shall include in standards adopted under this section a requirement to use the least toxic methods available to control pests, rodents, insects, and weeds.

(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.

(e) Each school district shall:

(1) adopt an integrated pest management program that incorporates the standards established by the department 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.26, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.10, eff. September 1, 2009.

SUBCHAPTER F. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 1951.251. PUBLIC INTEREST INFORMATION. (a) The department, with the advice of the committee, shall prepare information of public interest describing the functions of the department under this chapter and the procedures by which complaints are filed with and resolved by the department under this chapter.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.27, eff. September 1, 2007.

Sec. 1951.252. COMPLAINTS. (a) The department by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department under this chapter. The department 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 shall keep an information file about each complaint filed with the department under this chapter that the department has authority to resolve.

(c) If a written complaint is filed with the department under this chapter that the department has authority to resolve, the department, 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.

(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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.28, eff. September 1, 2007.

Sec. 1951.253. PUBLIC PARTICIPATION. (a) The department shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue for which the committee has a duty under this chapter

to advise the department.

(b) The department 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 programs under this chapter. Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.29, eff. September 1, 2007.

Sec. 1951.254. PUBLIC INFORMATION PROGRAM. (a) The department 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 may create a public information program advisory committee to assist in the development of a public information program.

(c) The department 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 considers appropriate, of a standard form for complaints under this chapter;

(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 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 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.

(f) The information sheet must include:

- (1) the names and telephone numbers of the department and the 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 [601](#), 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 under Section [1951.210](#).

(g) The department 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.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.29, eff. April 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. [2458](#)), Sec. 1.30, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 7.11,

eff. September 1, 2009.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.31, eff. September 1, 2007.

SUBCHAPTER G. LICENSE REQUIREMENTS, ISSUANCE, AND RENEWAL

Sec. 1951.301. STRUCTURAL PEST CONTROL BUSINESS LICENSE REQUIRED. (a) In this section, "branch office" means any place of business, other than the primary office or a facility serving solely as a telephone answering service, that has at least one employee during normal business hours who is capable of:

- (1) answering customers' normal questions;
- (2) scheduling normal inspections or work; or
- (3) performing structural pest control functions.

(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; and

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

(c) A structural pest control business license entitles a person and the person's employees to engage in the business of structural pest control under the direct supervision of a certified commercial applicator.

(d) A person engaged in the business of structural pest control must hold a structural pest control business license for each place of business, including each branch office. A certified commercial applicator, certified noncommercial applicator, or

licensed technician is not required to obtain a separate license for each branch office of an employer.

(e) Each structural pest control business license holder shall employ a certified commercial applicator at all times.

(f) A certified commercial applicator or technician license must be associated with a business license holder. The name of the employer of a licensed commercial applicator or technician must be printed on the face of the license issued to a commercial applicator or technician.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.32, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.12, eff. September 1, 2009.

Sec. 1951.302. CERTIFIED COMMERCIAL APPLICATOR'S LICENSE. The department 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.33, eff. September 1, 2007.

Sec. 1951.303. CERTIFIED NONCOMMERCIAL APPLICATOR'S LICENSE. (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 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.

(b) An individual who does not hold a certified commercial applicator's license may not engage in the business of structural pest control unless the individual holds a certified noncommercial applicator's or technician license and:

(1) is employed by the state or a political subdivision of the state and engages in the business of structural pest control other than by applying a general use pesticide in an incidental use situation; or

(2) engages in the business of structural pest control as an employee of a person who owns, operates, or maintains a building that is:

(A) an apartment building;

(B) a day-care center;

(C) a hospital;

(D) a nursing home;

(E) a hotel, motel, or lodge;

(F) a warehouse;

(G) a food-processing establishment, other than a restaurant, retail food, or food service establishment; or

(H) a school.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.34, eff. September 1, 2007.

Sec. 1951.304. TECHNICIAN LICENSE. The department may designate different classes or categories for technicians.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.35, eff. September 1, 2007.

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

(b) Each applicant must provide the information the

department requires to determine the applicant's qualifications.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.36,
eff. September 1, 2007.

Sec. 1951.306. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. (a) The department may waive any license requirement under this chapter for an applicant who holds a license issued by another state that has license requirements substantially equivalent to those of this state. The department may enter into reciprocal licensing agreements with other states that have license requirements substantially equivalent to those of this state.

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

(1) establishes residence in this state; and

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.37,
eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.13,
eff. September 1, 2009.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.38,
eff. September 1, 2007.

Sec. 1951.308. LICENSE EXPIRATION. A license issued under this chapter expires at the end of the license period as determined by department rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.39, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.14, eff. September 1, 2009.

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 license or endorsement; and
- (2) 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 license; and
- (2) a license for each technician the applicant employs.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.40, eff. September 1, 2007.

Sec. 1951.312. LIABILITY INSURANCE; EXCEPTIONS. (a) The department may not issue or renew a structural pest control business license until the license applicant:

- (1) files with the department a policy or contract of insurance, approved as sufficient by the department, 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, 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, files with the department 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;

(3) files with the department a bond, certificate of deposit, or other proof acceptable to the department 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 evidence satisfactory to the department 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 approved by the department. 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 by rule may require different amounts of insurance coverage for different classifications of operations under this chapter.

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

(e) An applicant who files proof under Subsection (a)(3)

must designate a third party not affiliated with the applicant to handle the processing of damage claims regarding that security.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 537, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.43, eff. September 1, 2007.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.44, eff. September 1, 2007.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.45, eff. September 1, 2007.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.46, eff. September 1, 2007.

SUBCHAPTER H. TRAINING

Sec. 1951.351. TECHNICIAN TRAINING PROGRAM. (a) The department shall:

(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 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 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 considers necessary.

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.47, eff. September 1, 2007.

Sec. 1951.352. NEW DEVELOPMENTS; PROOF OF STUDY. If the department 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 may require of each applicant proof of study by:

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.48, eff. September 1, 2007.

Sec. 1951.353. FEES RELATED TO TRAINING PROGRAMS. (a) The department may charge a fee to a person to purchase or borrow materials developed for the technician training program under Section 1951.351. The department shall set the fee in an amount that will recover the costs of the program.

(b) The department may charge a fee in an amount established by rule for each course considered for approval under Section 1951.352.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.49, eff. September 1, 2007.

SUBCHAPTER I. EXAMINATIONS

Sec. 1951.401. EXAMINATION FOR CERTIFIED APPLICATOR'S LICENSE. The department 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.50, eff. September 1, 2007.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.51, eff. September 1, 2007.

Sec. 1951.403. EXAMINATION FEE. Each time a person applies to take an examination for a license, the person shall pay the department an examination fee, in an amount established by department rule, for each category of examination to be taken. Except as provided by department rule, an examination fee is not refundable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.52, eff. September 1, 2007.

Sec. 1951.404. LIST OF STUDY MATERIALS AND SEMINARS. The department 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.53, eff. September 1, 2007.

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 shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national testing service, the department shall notify each examinee of the results of the examination not later than the 14th day after the date the department 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 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 licensing examination administered under this chapter, the department shall provide to the person an analysis of the person's performance on the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.54, eff. September 1, 2007.

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;

(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.

Added by Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.55, eff. September 1, 2007.

SUBCHAPTER J. PRACTICE BY LICENSE HOLDER

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 mailing address and telephone number; and

(2) a statement that the department has jurisdiction over individuals licensed under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.56, eff. September 1, 2007.

Sec. 1951.452. RECORDS OF LICENSE HOLDER. (a) The department may require each license holder to make records, as prescribed by the department, 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 and its authorized agents during normal business hours.

(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 and its authorized agents during the employer's normal operating hours.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.57, eff. September 1, 2007.

Sec. 1951.453. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS: RESIDENTIAL PROPERTY. (a) For an indoor treatment at a private residence that is not rental property, a certified applicator or technician shall make available a pest control information sheet developed under Section 1951.254 to the owner of the residence before each treatment begins.

(b) For an indoor treatment at a residential rental property with fewer than five rental units, a certified applicator or technician shall make available a pest control information sheet developed under Section 1951.254 to the tenant of each unit.

(c) For an indoor treatment at a residential rental property with five or more rental units, a certified applicator or technician shall make available a pest control information sheet developed under Section 1951.254 and a pest control sign developed under that section to the owner or manager of the property. The owner or manager or an employee or agent of the owner or manager, other than the certified applicator or technician, shall notify residents who live in the direct area of the treatment or in an adjacent area by:

(1) posting the sign in an area of common access at least 48 hours before each planned treatment; or

(2) leaving the information sheet on the front door of each unit or in a conspicuous place inside each unit at least 48 hours before each planned treatment.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.15,

eff. September 1, 2009.

Sec. 1951.454. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS: WORKPLACE. For an indoor treatment at a workplace, a certified applicator or technician shall make available a pest control information sheet developed under Section [1951.254](#) and a pest control sign developed under that section to the employer or the building manager. The employer or building manager or an employee or agent of the owner or manager, other than the certified applicator or technician, shall notify the persons who work at the workplace of the date of the planned treatment by:

(1) posting the sign in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and

(2) providing the information sheet to any person working in the building on a request made by the person during normal business hours.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 7.16, eff. September 1, 2009.

Sec. 1951.455. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS: CERTAIN OTHER BUILDINGS. (a) For an indoor treatment at a building that is a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school, or day-care center, a certified applicator or technician shall make available a pest control information sheet developed under Section [1951.254](#) and a pest control sign developed under that section to the chief administrator or building manager. The chief administrator or building manager shall notify the persons who work in the building of the treatment by:

(1) posting the sign in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and

(2) providing the information sheet to a person working in the building on request of the person.

(b) Personnel at a school or day-care center shall inform the parent, guardian, or managing conservator of each child attending the school or center, at the time the child is registered, that:

(1) the school or center periodically applies pesticides indoors; and

(2) information on the application of the pesticides is available at the request of the parent, guardian, or managing conservator.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.17, eff. September 1, 2009.

Sec. 1951.456. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS; RULES; EXCEPTION. (a) The department shall develop a policy to implement and enforce Sections 1951.453-1951.455.

(b) Under rules adopted by the department, 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.

(c) A person is not considered in violation of Section 1951.453, 1951.454, or 1951.455 or a rule adopted under this section for not posting a pest control sign developed under Section 1951.254 if the sign is posted as required by Section 1951.453, 1951.454, or 1951.455 or a rule adopted under this section but is removed by an unauthorized person.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 7.19(4), eff. September 1, 2009.

(e) The signage, advance notice, and information sheet requirements of Sections 1951.453-1951.455 do not apply to space that is vacant, unused, and unoccupied as a residence, workplace, or other use covered by Sections 1951.453-1951.455.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.58, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.19(4), eff. September 1, 2009.

Sec. 1951.457. PEST CONTROL INFORMATION FOR OUTDOOR TREATMENTS. (a) For an outdoor treatment at a private residence that is not rental property, a certified applicator or technician shall make available a pest control information sheet developed under Section 1951.254 at the residence before the treatment begins.

(b) For an outdoor treatment at a residential rental property with fewer than five rental units, a certified applicator or technician shall make available a pest control information sheet at each unit at the time of treatment.

(c) The department 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 determines that the distribution or posting, or both, would protect the public's health, safety, and welfare.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.59, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.18, eff. September 1, 2009.

Sec. 1951.458. PRACTICE BY NONCOMMERCIAL APPLICATOR OR TECHNICIAN. (a) A person who holds a certified noncommercial applicator's or technician license may not engage in the business of structural pest control outside the scope of the employment for which the person is licensed as a certified noncommercial applicator or technician unless the person becomes licensed as otherwise provided by this chapter.

(b) A person who holds a certified noncommercial applicator's or technician license may engage in the business of structural pest control without association with a business that holds a structural pest control business license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1951.459. PEST CONTROL SERVICES FOR CERTAIN BUILDINGS. The owner of a building that is an apartment building, day-care center, hospital, nursing home, hotel, motel, lodge, warehouse, school, or food-processing establishment, other than a restaurant, retail food, or food service establishment, may obtain pest control services for that building from a person only by:

(1) contracting with a person who holds a license to perform the services; or

(2) requiring a person employed by the owner who is licensed as a certified noncommercial applicator or technician to perform the services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER K. DISCIPLINARY PROCEDURES

Sec. 1951.501. DISCIPLINARY POWERS OF COMMISSIONER RELATING TO STRUCTURAL PEST CONTROL. (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, after notice and a hearing, the commissioner 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) Repealed by Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 7.19(5), eff. September 1, 2009.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 506, Sec. 7.19(5), eff. September 1, 2009.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. [2458](#)), Sec. 1.60, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.19(5), eff. September 1, 2009.

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.61, eff. September 1, 2007.

Sec. 1951.503. JUDICIAL REVIEW. (a) An applicant or license holder may appeal from an order or other action of the commissioner under this chapter 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 issues the order.

(c) The hearing in district court is under the substantial evidence rule.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.62, eff. September 1, 2007.

Sec. 1951.504. SETTLEMENT OF CONTESTED CASES. (a) A settlement of a contested case under Chapter 2001, Government Code, must be approved by the commissioner.

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

(c) The commissioner may authorize the department to conduct informal settlement negotiations between the department and a license holder to resolve a complaint, other than a complaint

involving a misapplication, by a consumer against the license holder.

(d) An informal settlement reached under Subsection (c):

(1) may not require the license holder to:

(A) refund money to the consumer in an amount greater than the amount provided under the original contract for services by the license holder; or

(B) perform any services that the license holder did not agree to perform in the original contract; and

(2) does not release the license holder from any liability for a misapplication.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.63, eff. September 1, 2007.

Sec. 1951.505. EFFECT OF REVOCATION. (a) A license revoked under Section 1951.501 may not be renewed.

(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.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.64, eff. September 1, 2007.

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.

Added by Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.65, eff. September 1, 2007.

SUBCHAPTER M. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.75, eff. September 1, 2007.

Sec. 1951.602. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter or a rule, license, or order of the commissioner 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, the commissioner 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

(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, the district court shall grant injunctive relief as the facts warrant.

(d) At the request of the commissioner, 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.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 890 (H.B. 2458), Sec. 1.76, eff. September 1, 2007.

Sec. 1951.603. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) violates this chapter;

(2) violates a rule adopted under Section 1951.205 or 1951.206; or

(3) intentionally makes a false statement in an application for a license or otherwise fraudulently obtains or attempts to obtain a license.

(b) Each day a violation occurs is a separate offense.

(c) Except as otherwise provided by this subsection, an offense under this section is a Class C misdemeanor. An offense under this section is a Class B misdemeanor if the person has been convicted previously of an offense under this section.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.