

SENATE BILL NO. 159—SENATOR HAMMOND

FEBRUARY 15, 2023

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to pest control.
(BDR 49-608)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pest control; requiring the Director of the State Department of Agriculture to adopt regulations to authorize a person to train as an applicator to engage in pest control activities under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a natural person from engaging in, offering to engage in,
2 advertising or soliciting to perform certain pest control activities without first
3 obtaining a license from the Director of the State Department of Agriculture. (NRS
4 555.280, 555.285) **Section 1** of this bill requires the Director to adopt regulations to
5 authorize a person to train as an applicator to engage in pest control activities for a
6 period of not less than 90 days without holding a license as an applicator. **Section 1**
7 requires such regulations to allow an applicator trainee to apply: (1) general-use
8 pesticides under the direct supervision of a person who is licensed as an applicator;
9 and (2) restricted-use pesticides under the immediate supervision of certain persons
10 who are licensed as an applicator. **Sections 2-4** of this bill make conforming
11 changes to indicate the proper placement of **section 1** in the Nevada Revised
12 Statutes.

13 **Sections 5 and 6** of this bill make conforming changes to provide that **section**
14 **1** is an exception to the requirement to obtain a license to engage in certain pest
15 control activities.

16 Existing law provides that any person violating the provisions of law relating to
17 the application of pesticides is guilty of a misdemeanor, must pay an administrative
18 fine of not more than \$5,000 per violation and may be subject to an administrative
19 fine for each violation, which may not exceed \$5,000 per day. (NRS 555.460,
20 555.470) **Sections 14 and 15** of this bill provide that a person violating the



21 provisions of **section 1** governing an applicator trainee is also subject to criminal
22 penalties and administrative fines.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 555 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. In accordance with the provisions of this section, the**
4 **Director shall adopt regulations to authorize a natural person to**
5 **train as an applicator to engage in pest control for a period of not**
6 **less than 90 days without holding a license as an applicator. Such**
7 **regulations must provide:**

8 **(a) That an applicator trainee may only apply:**

9 **(1) A general-use pesticide under the direct supervision of a**
10 **person licensed as an applicator in this State; and**

11 **(2) A restricted-use pesticide under the immediate**
12 **supervision of an authorized commercial applicator, certified non-**
13 **private applicator or private applicator in accordance with the**
14 **provisions of NRS 555.351; and**

15 **(b) That the supervising applicator or pest control business that**
16 **employs an applicator trainee is responsible and liable for all**
17 **actions of the applicator trainee.**

18 **2. In adopting regulations pursuant to subsection 1, the**
19 **Director shall ensure such regulations:**

20 **(a) Comply with all applicable provisions of federal law**
21 **governing applicators and the application of pesticides and federal**
22 **and state law relating to public safety; and**

23 **(b) Are consistent with industry best practices relating to safety**
24 **and the training of employees.**

25 **3. As used in this section:**

26 **(a) "Direct supervision" means that an applicator trainee has**
27 **direct access physically, telephonically or by some other means to**
28 **an applicator licensed pursuant to NRS 555.2605 to 555.460,**
29 **inclusive; and**

30 **(b) "Immediate supervision" means that a supervisor who**
31 **is licensed pursuant to NRS 555.2605 to 555.460, inclusive, is**
32 **physically present as all times while an applicator trainee is**
33 **working.**

34 **Sec. 2.** NRS 555.2605 is hereby amended to read as follows:

35 555.2605 As used in NRS 555.2605 to 555.460, inclusive, **and**
36 **section 1 of this act**, unless the context otherwise requires, the
37 words and terms defined in NRS 555.261 to 555.2695, inclusive,
38 have the meanings ascribed to them in those sections.



1 **Sec. 3.** NRS 555.273 is hereby amended to read as follows:
2 555.273 All state agencies, municipal corporations and public
3 utilities or any other governmental agency are subject to the
4 provisions of NRS 555.2605 to 555.460, inclusive, *and section 1 of*
5 *this act* and rules adopted thereunder concerning the application of
6 restricted-use pesticides by any person.

7 **Sec. 4.** NRS 555.277 is hereby amended to read as follows:
8 555.277 1. The provisions of NRS 555.2605 to 555.460,
9 inclusive, *and section 1 of this act* relating to licenses and
10 requirements for their issuance, except those provisions relating to a
11 certificate or permit to use a restricted-use pesticide, do not apply to
12 any farmer-owner of ground equipment applying pesticides for
13 himself, herself or his or her neighbors, if:

14 (a) The farmer-owner operates farm property and operates and
15 maintains equipment for applying pesticides primarily for his or her
16 own use;

17 (b) The farmer-owner is not regularly engaged in the business of
18 applying pesticides or performing pest control as an operator,
19 primary principal or principal or as a regular occupation, and the
20 farmer-owner does not advertise or solicit pest control or publicly
21 hold himself or herself out as being in the business of pest control or
22 as an applicator; and

23 (c) The farmer-owner operates his or her equipment for applying
24 pesticides only in the vicinity of the farmer-owner's own property
25 and for the accommodation of the farmer-owner's neighbors for
26 agricultural purposes only.

27 2. The provisions of NRS 555.2605 to 555.460, inclusive, *and*
28 *section 1 of this act*, except those provisions relating to a certificate
29 or permit to use a restricted-use pesticide, do not apply to a gardener
30 using hand-powered equipment, devices or contrivances to apply
31 any pesticides of toxicity class III or IV, as classified by the United
32 States Environmental Protection Agency, to any lawn or garden as
33 an incidental part of his or her business of taking care of a lawn or
34 garden for remuneration, if he or she does not advertise or solicit
35 pest control or publicly hold himself or herself out as being in the
36 business of pest control or applying pesticides. As used in this
37 subsection, "gardener" means a person who owns, operates or is
38 employed by a business that provides routine care of a lawn or
39 garden for a homeowner.

40 **Sec. 5.** NRS 555.280 is hereby amended to read as follows:

41 555.280 1. ~~[A]~~ *Except as otherwise provided in the*
42 *regulations adopted pursuant to section 1 of this act*, a natural
43 person, including, without limitation, any consultant, demonstrator,
44 researcher or specialist, shall not engage, for hire or for profit, in
45 pest control or serve as an agent, operator, pilot, primary principal,



1 location principal or principal for that purpose within this State at
2 any time without a license as an applicator issued by the Director ~~[]~~
3 *pursuant to NRS 555.320.*

4 2. A natural person or business entity shall not operate, for hire
5 or for profit, as a pest control business within this State at any time
6 without a business license issued by the Director ~~[]~~ *pursuant to*
7 *NRS 555.320.*

8 **Sec. 6.** NRS 555.285 is hereby amended to read as follows:

9 555.285 ~~[A]~~ *Except as otherwise provided in the regulations*
10 *adopted pursuant to section 1 of this act, a* natural person shall not
11 engage in, offer to engage in, advertise or solicit to perform any of
12 the following pest control activities concerning wood-destroying
13 pests or organisms without a license as an applicator *issued*
14 *pursuant to NRS 555.320* ~~[issued]~~ by the Director:

15 1. Making an inspection to identify or to attempt to identify
16 infestations or infections of households or other structures by those
17 pests or organisms.

18 2. Making or altering inspection reports concerning the
19 infestations or infections.

20 3. Making estimates or bids, whether written or oral,
21 concerning the infestations or infections.

22 4. Submitting bids to perform any work involving the
23 application of pesticides for the elimination, extermination, control
24 or prevention of infestations or infections of those pests.

25 **Sec. 7.** (Deleted by amendment.)

26 **Sec. 8.** (Deleted by amendment.)

27 **Sec. 9.** (Deleted by amendment.)

28 **Sec. 10.** (Deleted by amendment.)

29 **Sec. 11.** (Deleted by amendment.)

30 **Sec. 12.** (Deleted by amendment.)

31 **Sec. 13.** (Deleted by amendment.)

32 **Sec. 14.** NRS 555.460 is hereby amended to read as follows:

33 555.460 Any person violating the provisions of NRS 555.2605
34 to 555.420, inclusive, *and section 1 of this act* or the regulations
35 adopted pursuant thereto, is guilty of a misdemeanor and, in
36 addition to any criminal penalty, shall pay to the Department an
37 administrative fine of not more than \$5,000 per violation. If an
38 administrative fine is imposed pursuant to this section, the costs of
39 the proceeding, including investigative costs and attorney's fees,
40 may be recovered by the Department.

41 **Sec. 15.** NRS 555.470 is hereby amended to read as follows:

42 555.470 1. The Director shall adopt regulations specifying a
43 schedule of fines which may be imposed, upon notice and a hearing,
44 for each violation of the provisions of NRS 555.2605 to 555.460,
45 inclusive ~~[]~~, *and section 1 of this act.* The maximum fine that may



1 be imposed by the Director for each violation must not exceed
2 \$5,000 per day. All fines collected by the Director pursuant to this
3 subsection must be remitted to the county treasurer of the county in
4 which the violation occurred for credit to the county school district
5 fund.

6 2. The Director may:

7 (a) In addition to imposing a fine pursuant to subsection 1, issue
8 an order requiring a violator to take appropriate action to correct the
9 violation; or

10 (b) Request the district attorney of the appropriate county to
11 investigate or file a criminal complaint against any person that the
12 State Board of Agriculture suspects may have violated any provision
13 of NRS 555.2605 to 555.460, inclusive **H**, *and section 1 of this*
14 *act.*

15 **Sec. 16.** (Deleted by amendment.)

16 **Sec. 17.** 1. This section becomes effective upon passage and
17 approval.

18 2. Sections 1 to 15, inclusive, of this act become effective:

19 (a) Upon passage and approval for the purpose of adopting any
20 regulations and performing any other preparatory administrative
21 tasks that are necessary to carry out the provisions of this act; and

22 (b) On October 1, 2023, for all other purposes.

23 3. Section 16 of this act becomes effective on the date on
24 which the provisions of 42 U.S.C. § 666 requiring each state to
25 establish procedures under which the state has authority to withhold
26 or suspend, or to restrict the use of professional, occupational and
27 recreational licenses of persons who:

28 (a) Have failed to comply with a subpoena or warrant relating to
29 a proceeding to determine the paternity of a child or to establish or
30 enforce an obligation for the support of a child; or

31 (b) Are in arrears in the payment for the support of one or more
32 children,

33 ↪ are repealed by the Congress of the United States.

