

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 460

Short Title: Certify Pesticide Users.

(Public)

Sponsors: Representatives Holt; and Rhodes.

Referred to: Basic Resources.

March 6, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE TRAINING AND EVENTUAL CERTIFICATION OF
3 CERTAIN APPLICATORS OF PESTICIDES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 106-65.31(b) reads as rewritten:

6 "(b) License. –

7 (1) The fee for the issuance of a license for any phase of structural pest
8 control, as the same is defined in G.S. 106-65.25, shall be one hundred
9 dollars (\$100.00); provided, that when or any time after the fee for a
10 license for any one phase is paid, the holder of said license may secure
11 a license for either or both of the other two phases for an additional fee
12 of fifty dollars (\$50.00) per license phase. Licenses shall expire on
13 June 30 of each year and shall be renewed annually. Any licensee who
14 fails or neglects to renew any license issued under the provisions of
15 this Article on or before August 1 of each year shall pay, in addition to
16 the annual fee, the sum of ten dollars (\$10.00) for each phase before
17 his license is renewed. Any licensee whose license is lost or destroyed
18 may secure a duplicate license for a fee of five dollars (\$5.00).

19 (2) A license holder shall register with the North Carolina Department of
20 Agriculture within 75 days of employment the names and initial dates
21 of employment of all certified applicators, estimators, salesmen,
22 servicemen and solicitors (not common laborers) and shall pay a
23 registration fee of twenty dollars (\$20.00) for each name registered,
24 which fee shall accompany the registration. ~~This registration fee shall not~~

1 ~~apply to a certified applicator.~~ All registrations expire when a license
2 expires. Each employee of a licensee for whom registration is made
3 and registration fee paid shall be issued an identification card which
4 shall be carried on the person of the employee at all times when
5 performing any phase of structural pest control work. An identification
6 card shall be renewed annually by payment of a renewal fee of twenty
7 dollars (\$20.00). An identification card shall be displayed upon
8 demand to the Commissioner, or his authorized representative, or to
9 the person for whom any phase of structural pest control work is being
10 performed. When an identification card is lost or destroyed, the
11 licensee shall secure a duplicate identification card for which he shall
12 pay a fee of one dollar (\$1.00). ~~This one dollar (\$1.00) fee shall not apply~~
13 ~~to a certified applicator's identification card.~~ The licensee shall be
14 responsible for registering and securing identification cards for all
15 employees who are estimators, salesmen, servicemen, and solicitors.

16 (3) It shall be unlawful for an estimator, serviceman, salesman or solicitor
17 to engage in the performance of any work covered by this Article
18 without having first secured and having in his possession an
19 identification card.

20 (4) It shall be unlawful for any employee to apply any pesticide on or after
21 January 1, 1990, to a structure or its adjacent property, except as
22 otherwise permitted under G.S. 106-65.25, without having first
23 completed a training program approved by the Committee on the safe
24 use of pesticides. Completion of the video training program on the
25 safe use of pesticides, approved by the Committee and in effect as of
26 the effective date of this act, shall satisfy the training requirement
27 provided that the program is completed prior to the application or
28 further application of pesticides by existing or future employees.

29 (5) Effective January 1, 1991, it shall be unlawful for an employee to
30 apply a pesticide to a structure or its adjacent area, except as permitted
31 under G.S. 106-65.25, unless he is a certified applicator. This
32 subdivision shall not apply to the application of a pesticide during the
33 75 day period immediately following the employee's initial date of
34 employment with the licensee provided that the pesticide is applied
35 under the direct supervision of the licensee or a certified applicator
36 employed by the licensee. Notwithstanding G.S. 106-65.24(24), the
37 term 'under the direct supervision' means, for the purposes of this
38 subdivision only, under the supervision of a certified applicator or
39 licensee physically present on the property being treated at the time of
40 treatment.

41 (6) It shall be unlawful for a licensee to direct or procure any salesman,
42 serviceman or estimator to engage in the performance of any work
43 covered by this Article without having first applied for an
44 identification card for such employee or agent; provided, however, that

1 the licensee shall have 75 days after employing a serviceman,
2 salesman or estimator within which to apply for an identification card.

3 (7) All registrations and applications for licenses and identification cards
4 shall be filed with the North Carolina Department of Agriculture.

5 (8) No person shall act as an estimator, serviceman, salesman, solicitor, or
6 agent for any licensee under this Article nor shall any such person be
7 issued an identification card by the Structural Pest Control Committee
8 who has within three years of the date of application for an
9 identification card been convicted of, plead guilty or **nolo contendere**,
10 or forfeited bond in any court, State or federal, to a crime involving
11 moral turpitude or to any violation of the North Carolina Structural
12 Pest Control Act or to any regulation promulgated by the Structural
13 Pest Control Committee. This provision shall not apply to any person
14 whose citizenship has been restored as provided by law.

15 (9) No person or business shall advertise as a contractor for structural pest
16 control services nor actually contract for such services unless that
17 person or business advertises or contracts in the name of the company
18 shown on the license certificate of the licensee or identification card of
19 the certified applicator who will perform the services."

20 Sec. 2. G.S. 106-65.25 reads as rewritten:

21 **"§ 106-65.25. Phases of structural pest control; license required; exceptions.**

22 (a) Structural pest control is divided into the following phases:

- 23 (1) Control of wood-destroying organisms by any method other than
24 fumigation,
25 (2) Control of household pests by any method other than fumigation,
26 (3) Fumigation,

27 and a license is required for each such phase, and it shall be unlawful for any person,
28 firm, corporation, association or any organization or combination thereof to engage in or
29 supervise work as a manager, owner, or owner-operator in any phase of structural pest
30 control unless there shall first be secured a valid license therefor, issued by the
31 Structural Pest Control Committee, and signed by the Commissioner of Agriculture.

32 (b) This Article shall not apply to any person doing work on his own property or
33 to any regular employee of any person, firm or corporation doing work on the property
34 of such person, firm or corporation, under the direct supervision of the person who owns
35 or is in charge of the property on which work is being done unless the work involves, in
36 any phase of pest control:

37 (1) The use of a restricted use pesticide in, on or around any structure or
38 its adjacent area; or is being used. Any person, including agents or
39 agencies of the federal, State or local governments, using a restricted
40 use pesticide, whether it be on his own property or on the property of
41 another

42 (2) The use of a pesticide other than a restricted-use pesticide in, on, or
43 around food handling establishments, human dwellings, institutions
44 such as schools and hospitals, restaurants, nursing homes, hotels, retail

1 establishments, offices, industrial establishments including warehouses
2 and grain elevators and any other structures and adjacent areas, public or
3 private or elevators, structures for the protection of stored, processed,
4 or manufactured products and other structures, public or private, that
5 are places of public accomodation or which are frequented by the
6 public, but excluding the following applications: in any phase of
7 structural pest control, must (i) qualify as a certified applicator for that phase
8 of structural pest control, or (ii) be under the direct supervision of a certified
9 applicator possessing a valid identification card for that phase of structural
10 pest control.

11 a. The application of a pesticide by a person or his employee in,
12 on, or around:

13 1. A single-family dwelling occupied by the person and
14 adjacent areas and appurtenant structures such as
15 garages, decks, storage sheds, and swimming pools;

16 2. A dwelling unit or dwelling units, within a multi-family
17 dwelling, occupied by the person or his immediate
18 family; or

19 3. Any structure located on a farm and which is used in the
20 production, raising, or storage of crops or animals or for
21 the storage of farm equipment, machinery, or tools.

22 b. The application of a household pesticide, as defined by the
23 Committee, in, on, or around a structure or adjacent area by any
24 person other than a licensee or his employee.

25 Any person, including government agents and employees, using a restricted use
26 pesticide in any phase of structural pest control shall qualify as a certified applicator for
27 that phase.

28 (b1) Persons who (i) demonstrate to the public the proper use and techniques of
29 application of pesticides or supervise such demonstration and/or (ii) conduct field
30 research with pesticides, and in doing so, use or supervise the use of restricted use
31 pesticides must possess a valid certified applicator's identification card. Included in the
32 first group are such persons as extension specialists and county agents, commercial
33 representatives demonstrating pesticide products, and those individuals demonstrating
34 methods used in public programs. The second group includes local, State, federal,
35 commercial and other persons conducting field research on or utilizing restricted use
36 pesticides.

37 The above standards do not apply to the following persons for purposes of these
38 regulations:

39 (1) Persons conducting laboratory type research involving restricted use
40 pesticides; and

41 (2) Doctors of medicine and doctors of veterinary medicine applying
42 pesticides as drugs or medication during the course of their normal
43 practice.

1 (c) Any person issued an original license after October 21, 1976, for any one or
2 any combination of the three phases shall be deemed to be a 'certified applicator' to use
3 or supervise the use of pesticides which are classified for restricted use so long as the
4 pesticides are being used only in the phase of structural pest control for which the
5 person is licensed.

6 (d) Effective January 1, 1990, any person who applies a pesticide to a structure or
7 its adjacent area must first register with the North Carolina Department of Agriculture,
8 pay a registration fee of up to ten dollars (\$10.00), as established by the Committee, and
9 satisfactorily complete a training course approved by the Committee. This subsection
10 shall not apply to a person whose structural pest control activities are limited
11 exclusively to exempt applications under subsection (b) of this section.

12 (e) Effective January 1, 1991, any person who applies a pesticide to a structure or
13 its adjacent area must qualify as a certified applicator for each phase of structural pest
14 control in which the person engages, except with respect to pesticide applications
15 exempt under subsection (b) of this section."

16 Sec. 3. G.S. 143-452 reads as rewritten:

17 "**§ 143-452. Licensing of pesticide applicators; certification of employee**
18 **applicators; fees.**

19 (a) No person shall engage in the business of pesticide applicator within this
20 State at any time unless he is licensed annually as a pesticide applicator by the Board.

21 (a1) No employee of a pesticide applicator shall apply any pesticide, except as
22 provided in subsection (a2) of this section, unless he is registered as a certified
23 employee applicator.

24 (a2) The certification requirement of subsection (a1) of this section shall not apply to
25 the following:

26 (1) The application of a pesticide other than a restricted-use pesticide by
27 the employee to his own property.

28 (2) The application of a restricted-use or other pesticide under the direct
29 supervision of a licensed pesticide applicator by an employee during
30 the first 75 days of the employee's term of employment with the
31 pesticide applicator. Notwithstanding any other provision of law, for
32 the purposes of this subdivision only, the term 'under the direct
33 supervision' means under the supervision of a pesticide applicator
34 physically present on the property being treated at the time of
35 treatment.

36 (b) Applications for pesticide applicator license shall be in the form and shall
37 contain the information prescribed by the Board. Each application shall be accompanied
38 by a non-refundable fee of twenty-five dollars (\$25.00) for each pesticide applicator's
39 license. In addition, an annual inspection fee of ten dollars (\$10.00) shall be submitted
40 for each aircraft to be licensed. Should any aircraft fail to pass inspection, making it
41 necessary for a second inspection to be made, the Board shall require an additional ten
42 dollar (\$10.00) inspection fee. In addition to the required inspection, unannounced
43 inspections may be made without charge to determine if equipment is properly
44 calibrated and maintained in conformance with the laws and regulations. All aircraft

1 licensed to apply pesticides shall be identified by a license plate or decal furnished by
2 the Board at no cost to the licensee, which plate or decal shall be affixed on the aircraft
3 in a location and manner prescribed by the Board. No applicator inspection or license
4 fee, original or renewal, shall be charged to State agencies or local governments or their
5 employees. Inspections of ground pesticide application equipment may be made. Any
6 such equipment determined to be faulty or unsafe shall not be used for the purpose of
7 applying a pesticide(s) until such time as proper repairs and/or alterations are made.

8 (b1) Each pesticide applicator shall register with the Board within 30 days of
9 employment the names of all employees who apply or who will apply pesticides on
10 behalf of the pesticide applicator and shall submit with the registration a fee of up to ten
11 dollars (\$10.00), as established by the Board, for each name registered.

12 (c) Repealed by Session Laws 1981, c. 592, s. 6.

13 (d) The Board shall classify licenses to be issued under this Part. Separate
14 classifications or subclassifications shall be specified for (i) ground and aerial methods
15 of application, and (ii) State and local government units engaged in the control of
16 rodents and insects of public health significance. The Board may include such further
17 classifications and subclassifications as the Board considers appropriate, including
18 provisions for licensing of apprentice pesticide applicators. For aerial applicators, a
19 license shall be required for both the contractor and the pilot. Each classification and
20 subclassification may be subject to separate testing procedures and requirements.

21 (e) Every licensed pesticide applicator who changes his address shall
22 immediately notify the Board.

23 (f) If the Board finds the applicant qualified to apply pesticides in the
24 classifications he has applied for and, if the applicant files the bond or insurance
25 required under G.S. 143-467, and if the applicant applying for a license to engage in
26 aerial application of pesticides has met all of the requirements of the Federal Aviation
27 Agency to operate the equipment described in the application, the Board shall issue a
28 pesticide applicator's license limited to the classifications for which he is qualified.
29 Every such license shall expire at the end of the calendar year of issue unless it has been
30 revoked or suspended prior thereto by the Board for cause, or unless such financial
31 security required under G.S. 143-467 is dated to expire at an earlier date, in which case
32 said license shall be dated to expire upon expiration date of said financial security. The
33 license may restrict the applicant to the use of a certain type or types of equipment or
34 pesticides or to certain areas if the Board finds that the applicant is qualified to use only
35 such type or types. If a license is not issued as applied for, the Board shall inform the
36 applicant in writing of the reasons therefor.

37 (g) A pesticide applicator's license shall not be transferable. When there is a
38 transfer of ownership, management, or operation of a business of a licensee hereunder,
39 the new owner, manager, or operator (as the case may be) whether it be an individual,
40 firm, partnership, corporation, or other entity, must have available a licensed pesticide
41 applicator to supervise the pesticide application business prior to continuance of such
42 business.

43 (h) Repealed by Session Laws 1987, c. 559, s. 15."

44 Sec. 4. G.S. 143-453 is amended by adding a new subsection to read:

1 "(a1) The Board shall establish qualifications for pesticide applicator employee
2 certification required under G.S. 143-452 and shall administer an examination by which
3 each employee seeking certification pursuant to G.S. 143-452 must demonstrate his
4 knowledge of pesticides, their usefulness, and their hazards. The Board may require an
5 employee seeking certification under G.S. 143-452 to meet the same qualifications and
6 to take the same courses and examination as applicants for a pesticide applicator
7 license."

8 Sec. 5. G.S. 143-454 reads as rewritten:

9 "**§ 143-454. Solicitors, salesmen and operators; applicator's ~~responsibility-~~**
10 **responsibility; employee training.**

11 (a) Every licensed pesticide applicator shall submit to the Board, at such times as
12 the Board or the Commissioner may prescribe, the names of all solicitors, salesmen, and
13 operators employed by him.

14 (b) Each licensed pesticide applicator shall be responsible for solicitors,
15 salesmen, and operators in his employment to assure that pesticides are used in a
16 manner consistent with the intent of this Article.

17 (c) Any employee of a pesticide applicator who applies a pesticide on or after
18 January 1, 1990, must first register with the North Carolina Department of Agriculture,
19 pay a registration fee of up to ten dollars (\$10.00), as established by the Board, and
20 complete a program approved by the Board on the safe use of pesticides. The pesticide
21 applicator shall register with the Board each employee required under this section to be
22 registered and shall remit to the Board a fee of up to ten dollars (\$10.00), as established
23 by the Board, for each employee so registered.

24 Sec. 6. Article 52, Part 4 of Chapter 143 of the General Statutes is amended
25 by adding a new section to read as follows:

26 "**§ 143-454.1. Noncommercial applications.**

27 A person applying pesticides to his own property must be a licensed pesticide
28 applicator be certified by the Board through examination and training as having the
29 equivalent qualifications and competence of an employee applicator certified under G.S.
30 143-452 in the safe use of pesticides. This section shall not apply to the application of a
31 pesticide to land adjacent to the person's residence, land treated by a private pesticide
32 applicator to the extent that such treatment is authorized under a private pesticide
33 applicator's license, and similar properties as identified by the Board. The Board may
34 assess an annual fee, up to ten dollars (\$10.00), for certification and renewal of
35 certification under this section. The Board may provide for recertification of persons
36 under this section no less frequently than every six years."

37 Sec. 7. Sections 1, 2, 4 and 5 of this act shall become effective August 1,
38 1989. Sections 3 and 6 of this act shall become effective January 1, 1991. G.S. 106-
39 65.31(b)(4), as set out in Section 1, is repealed January 1, 1991. G.S. 106-65.25(d), as
40 set out in Section 2, is repealed January 1, 1991. G.S. 143-454(c), as set out in Section
41 5, is repealed January 1, 1991.