

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 746

Short Title: Amend Pest Control Law.

(Public)

Sponsors: Representative Albertson.

Referred to: Basic Resources.

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STRUCTURAL PEST CONTROL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.24 reads as rewritten:

"§ 106-65.24. Definitions.

For the purposes of this Article, the following terms, when used in the Article or the rules and regulations, or orders made pursuant thereto, shall be construed respectively to mean:

- (1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.
- (1a) 'Applicant for a certified applicator's identification card' means any person making application to use restricted use pesticides in any phase of structural pest control.
- (2) 'Applicant for a license' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.
- (3) 'Attractants' means substances, under whatever name known, which may be toxic to insects and other pests but are used primarily to induce insects and other pests to eat poisoned baits or to enter traps.

- 1 (3a) ~~'Branch office' means and includes any place of doing business~~
2 ~~which has two or more employees engaged in the control of insect~~
3 ~~pests, rodents, or wood-destroying organisms.~~
4 (3b) 'Call office' means any office or telephone answering service other
5 than a licensee's home office which is used by a licensee to conduct
6 structural pest control work and which employs no more than one
7 individual engaged in structural pest control work.
8 (4) 'Certified applicator' means any individual who is certified under
9 G.S. 106-65.25 as authorized to use or supervise the use of any
10 pesticide which is classified for restricted use.
11 (5) 'Commissioner' means the Commissioner of Agriculture of the State
12 of North Carolina.
13 (6) 'Committee' means the Structural Pest Control Committee.
14 (6a) 'Deviation' means failure of the licensee or certified applicator or
15 registered technician card holder to follow any rule adopted by the
16 Committee under provisions of this Article.
17 (7) 'Device' means any instrument or contrivance (other than a firearm)
18 which is intended for trapping, destroying, repelling, or mitigating
19 any pest or any other form of plant or animal life (other than man
20 and other than bacteria, virus, or other microorganism on or in living
21 man or other living animals); but not including equipment used for
22 the application of pesticides when sold separately therefrom.
23 (8) Repealed by Session Laws 1975, c. 570, s. 4.
24 (8a) 'Director' means the Director of the Structural Pest Control Division
25 of the Department of Agriculture.
26 (9) 'Employee' means any person employed by a licensee with the
27 exceptions of clerical, janitorial, or office maintenance employees,
28 or those employees performing work completely disassociated with
29 the control of insect pests, rodents or the control of wood-destroying
30 organisms.
31 (9a) 'Enforcement agency' means the Structural Pest Control Division of
32 the Department of Agriculture.
33 (10) 'Fumigants' means any substance which by itself or in combination
34 with any other substance emits or liberates a gas or gases, fumes or
35 vapors and which gas or gases, fumes or vapors when liberated and
36 when used will destroy vermin, rodents, insects, and other pests; but
37 may be lethal, poisonous, noxious, or dangerous to human life.
38 (11) 'Fungi' means wood-decaying fungi.
39 (11a) 'Home office' means the licensee's principle place of business.
40 (12) 'Insect' means any of the numerous small invertebrate animals
41 generally having the body more or less obviously segmented, for the
42 most part belonging to the class Insecta, comprising six-legged,
43 usually winged forms, as for example, beetles, bugs, bees, flies, and
44 to other allied classes of arthropods whose members are wingless

- 1 and usually have more than six legs, as for example, spiders, mites,
2 ticks, centipedes, and sowbugs.
- 3 (13) 'Insecticides' means substances, not fumigants, under whatever
4 name known, used for the destruction or control of insects and
5 similar pests.
- 6 (14) 'Label' means the written, printed, or graphic matter on, or attached
7 to, the pesticide or device or any of its containers or wrappers.
- 8 (14a) The term 'labeling' means all labels and other written, printed, or
9 graphic matter:
- 10 a. Upon the pesticide (or device) or any of its containers or
11 wrappers;
- 12 b. Accompanying the pesticide (or device) at any time;
- 13 c. To which reference is made on the label or in literature
14 accompanying the pesticide (or device) except when accurate
15 nonmisleading reference is made to current official publications
16 of the United States Department of Agriculture or Interior, the
17 United States Public Health Service, state experiment stations,
18 state agricultural colleges, or other similar federal institutions or
19 official agencies of this State or other states authorized by the
20 law to conduct research in the field of pesticides.
- 21 (15) 'Licensee' means the designated person in charge of the business
22 establishment or business entity, whether it be individual, firm,
23 partnership, corporation, association or any organization, or any
24 combination thereof, engaged in pest control work covered under the
25 provisions of this Article. Each branch office of a business
26 establishment is to be in charge of a person who has a license herein
27 provided for.
- 28 (16) 'Person' means any individual, partnership, association, corporation,
29 or any organized group of persons whether incorporated or not.
- 30 (17) 'Pest' means any living organism, including but not limited to,
31 insects, rodents, birds, and fungi, which the Commissioner declares
32 to be a pest.
- 33 (18) 'Pesticide' means any substance or mixture of substances intended
34 for preventing, destroying, repelling, or mitigating any pest.
- 35 (19) 'Registered pesticide' means a pesticide which has been registered
36 by federal and/or State agency responsible for registering pesticides.
- 37 (19a) 'Registered technician' means any individual who is required to be
38 registered with the Structural Pest Control Division under G.S. 106-
39 65.31.
- 40 (20) 'Repellents' means substances, not fumigants, under whatever name
41 known, which may be toxic to insects and related pests, but are
42 generally employed because of capacity for preventing the entrance
43 or attack of pests.

- 1 (21) ~~'Restricted use~~ 'Restricted use pesticide' means a pesticide which has
2 been designated as such by the federal and/or State agency
3 responsible for registering pesticides.
- 4 (22) 'Rodenticides' means substances, not fumigants, under whatever
5 name known, whether poisonous or otherwise, used for the
6 destruction or control of rodents.
- 7 (23) 'Structural pest control' means the control of wood-destroying
8 organisms or household pests (including, but not limited to, animals
9 such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks,
10 wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs,
11 crickets, termites, wood borers, etc.), including the identification of
12 infestations or infections, the making of inspections, the use of
13 pesticides, including insecticides, repellents, attractants,
14 rodenticides, fungicides, and fumigants, as well as all other
15 substances, mechanical devices or structural modifications under
16 whatever name known, for the purpose of preventing, controlling
17 and eradicating insects, vermin, rodents and other pests in household
18 structures, commercial buildings, and other structures (including
19 household structures, commercial buildings and other structures in
20 all stages of construction), and outside areas, as well as all phases of
21 fumigation, including treatment of products by vacuum fumigation,
22 and the fumigation of railroad cars, trucks, ships, and airplanes, or
23 any one or any combination thereof.
- 24 (24) 'Under the direct supervision of a certified applicator' means, unless
25 otherwise prescribed by its labeling, a pesticide shall be considered
26 to be applied under the direct supervision of a certified applicator if
27 it is applied by a competent person acting under the instructions and
28 control of a certified applicator who is available if and when needed,
29 even though such certified applicator is not physically present at the
30 time and place the pesticide is applied."

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

32 "**§ 106-65.25. Phases of structural pest control; license required; exceptions.**

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

- 34 (1) ~~Control of wood-destroying organisms by any method other than~~
35 ~~fumigation,~~
- 36 (2) ~~Control of household pests by any method other than fumigation,~~
- 37 (3) ~~Fumigation,~~

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

43 (b) ~~This Article shall not apply to any person doing work on his own property or~~
44 ~~to any regular employee of any person, firm or corporation doing work on the property~~

1 of such person, firm or corporation, under the direct supervision of the person who owns
2 or is in charge of the property on which work is being done unless a restricted use
3 pesticide is being used. Any person, including agents or agencies of the federal, State or
4 local governments, using a restricted use pesticide, whether it be on his own property or
5 on the property of another in, on, or around food handling establishments, human
6 dwellings, institutions such as schools and hospitals, industrial establishments including
7 warehouses and grain elevators and any other structures and adjacent areas, public or
8 private, or for the protection of stored, processed, or manufactured products in any
9 phase of structural pest control, must (i) qualify as a certified applicator for that phase of
10 structural pest control, or (ii) be under the direct supervision of a certified applicator
11 possessing a valid identification card for that phase of structural pest control.

12 (b1) ~~Persons who (i) demonstrate to the public the proper use and techniques of~~
13 ~~application of pesticides or supervise such demonstration and/or (ii) conduct field~~
14 ~~research with pesticides, and in doing so, use or supervise the use of restricted use~~
15 ~~pesticides must possess a valid certified applicator's identification card. Included in the~~
16 ~~first group are such persons as extension specialists and county agents, commercial~~
17 ~~representatives demonstrating pesticide products, and those individuals demonstrating~~
18 ~~methods used in public programs. The second group includes local, State, federal,~~
19 ~~commercial and other persons conducting field research on or utilizing restricted use~~
20 ~~pesticides.~~

21 ~~The above standards do not apply to the following persons for purposes of these~~
22 ~~regulations:~~

23 (1) ~~Persons conducting laboratory type research involving restricted use~~
24 ~~pesticides; and~~

25 (2) ~~Doctors of medicine and doctors of veterinary medicine applying~~
26 ~~pesticides as drugs or medication during the course of their normal~~
27 ~~practice.~~

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

33 (a) The Committee shall classify license phases to be issued under this Article.
34 Separate phases or subphases shall be specified for:

35 (1) Control of household pests by any method other than fumigation ('P'
36 phase);

37 (2) Control of wood-destroying organisms by any method other than
38 fumigation ('W' phase); and

39 (3) Fumigation ('F' phase).

40 (b) It shall be unlawful for any person to act in the capacity of a structural pest
41 control licensee, advertise as, offer to engage in, or engage in or supervise work as a
42 manager, owner, or owner-operator in any phase of structural pest control unless he is
43 licensed as provided for in this Article. A license is required for each phase of
44 structural pest control. No person may hold more than one license for each phase. The

1 licensee shall be directly involved with the supervision of the work performed under his
2 license. If the licensee is not physically present at the office to which his license is
3 assigned, he shall maintain documentation to show that he is supervising the structural
4 pest control work of that office.

5 (c) A licensee may not establish any office other than his home office from
6 which more than one employee is performing structural pest control work unless a
7 separate licensee is placed in charge of that office.

8 (d) A license is not required for any person (or his full-time regular employees)
9 doing structural pest control work on his own property: provided, however, that no fee
10 may be charged for structural pest control work performed by any such person.

11 (e) Any person who uses a pesticide in any phase of structural pest control in, on
12 or around any structure which serves as the temporary or permanent lodging of others, a
13 food or feed handling or processing establishment, an institution such as a school or
14 hospital or any other public area, whether it be on his own property or on the property of
15 another, must:

16 (1) Qualify as a certified applicator for that phase of structural pest
17 control; or

18 (2) Be under the direct supervision of a certified applicator possessing a
19 valid identification card for that phase of structural pest control.

20 (f) Persons who demonstrate to the public the proper use and techniques of
21 application of pesticides or supervise such demonstration or conduct field research with
22 pesticides, and in doing so, use or supervise the use of restricted use pesticides must
23 possess a valid certified applicator's identification card. Included in the first group are
24 such persons as extension representatives demonstrating pesticide products and those
25 individuals demonstrating methods used on public programs. The second group
26 includes local, State, federal, commercial, and other persons conducting field research
27 on or utilizing restricted use pesticides.

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

30 (1) Persons conducting laboratory-type research involving restricted use
31 pesticides; or

32 (2) Doctors of medicine and doctors of veterinary medicine applying
33 restricted use pesticides as drugs or medication during the course of
34 their normal practice.

35 (g) Any person issued a license for any one or any combination of the phases of
36 structural pest control shall be deemed to be a 'certified applicator' to use or supervise
37 the use of restricted use pesticides so long as the pesticides are being used only in the
38 phase(s) of structural pest control for which the person is licensed.

39 (h) Licenses and certified applicator's identification cards may only be issued to
40 individuals. License certificates and certified applicator's identification cards shall be
41 issued in the name of the individual, shall bear the name and address of his business or
42 employer's business and shall indicate the phase or phases for which the individual is
43 qualified and such other information as the Committee may specify."

44 Sec. 3. G.S. 106-65.27 reads as rewritten:

1 **"§ 106-65.27. Examinations of applicants; fee; license not transferable.**

2 (a) Certified Applicator. – All applicants for a
3 certified applicator's identification card shall demonstrate practical knowledge of the
4 principles and practices of pest control and safe use of pesticides. Competency shall be
5 determined on the basis of written examinations to be provided and administered by the
6 Committee and, as appropriate, performance testing. Testing shall be based upon
7 examples of problems and situations appropriate to the particular phase or subphase
8 ~~phases~~ of structural pest control for which application is made and shall include, include
9 where ~~relevant~~ relevant, the following areas of competency:

- 10 (1) Label and labeling comprehension.
- 11 (2) Safety factors associated with pesticides – toxicity, precautions, first
12 aid, proper handling, etc.
- 13 (3) Influence of and on the environment.
- 14 (4) Pests – identification, biology, and habits.
- 15 (5) Pesticides – types, formulations, compatibility, hazards, etc.
- 16 (6) Equipment – types and uses.
- 17 (7) Application techniques.
- 18 (8) Laws and regulations.

19 An applicant for a certified applicator's identification card shall submit ~~with his~~
20 ~~application for examination~~ an examination fee of ten dollars (\$10.00) for each phase or
21 subphase of the phases of structural pest control in which the applicant he chooses to be
22 examined. An examination for more than one phase or subphase one or more phases of
23 structural pest control may be taken at the same ~~time.~~ time at any regularly scheduled
24 examination. ~~If an applicant fails to pass an examination for one or more phases of structural~~
25 ~~pest control, he shall be entitled to take one additional examination, at a regularly scheduled~~
26 ~~examination, without the payment of another examination fee.~~ Frequency of such
27 examinations shall be ~~in~~ at the discretion of the Committee, ~~consideration being given to~~
28 ~~the number of applications received,~~ provided that a minimum of two examinations shall be
29 given annually. The examination will cover each phase or subphase the phase or phases
30 of structural pest control for which application is being made. ~~The ten dollar (\$10.00) fee~~
31 ~~shall not apply to agents or agencies of the federal, State, or local governments.~~

32 (b) License. – Each applicant for an original license must demonstrate upon
33 written examination, to be provided and administered by the Committee, his
34 competency as a structural pest control operator for the phase or subphase phases in
35 which he is applying for a license. Frequency of such examinations shall be at ~~in~~ the
36 discretion of the Committee, ~~consideration being given to the number of applications~~
37 ~~received,~~ provided that a minimum of two examinations shall be given annually. The
38 examination will cover each phase or subphase the phase or phases of structural pest
39 control for which application is being made. All applicants for a license shall register
40 with the Division on a prescribed form. A license examination fee of twenty-five
41 dollars (\$25.00) shall be charged for each phase or subphase of structural pest control in
42 which the applicant chooses to be examined. An examination for more than one phase
43 or subphase of structural pest control may be taken at the same time.

1 An applicant shall submit with his application for examination an examination fee of
2 twenty five dollars (\$25.00) for each of the phases of structural pest control in which he
3 chooses to be examined. An examination for one or more phases of structural pest
4 control may be taken at the same time. If an applicant fails to pass an examination for
5 one or more phases of structural pest control, he shall be entitled to take one additional
6 examination, at a regularly scheduled examination, without the payment of another
7 examination fee. Agents or agencies of the federal, State or local governments are not
8 exempt from this fee.

9 (c) A license shall not be transferable. When there is a transfer of ownership,
10 management or operation of a business of a licensee hereunder, there shall be not more
11 than a total of 90 days during any 12-month period in which any individual, firm,
12 partnership, corporation or other entity, shall not have a qualified licensee to operate
13 said business; and further provided, during each of the periods specified under this
14 section, the use of any restricted use pesticide by any person representing said business
15 agent or agency shall be by or under the direct supervision of a person possessing a
16 valid certified applicator's identification card. A new licensee shall be responsible for
17 correcting all discrepancies committed by the preceding licensee of said business or
18 anyone working under his license during the 12-month period next preceding his
19 becoming the designated licensee and he shall further be responsible for correcting
20 discrepancies for all existing contracts. A discrepancy shall mean failure of the licensee
21 to follow any rule and regulation concerning treating procedures adopted by the
22 Committee under provisions of this Article. A license, certified applicator's
23 identification card or registered technician's identification card is not transferable from
24 one person to another. A licensee or certified applicator may change the name of his
25 business or employer's business on his license certificate or certified applicator's
26 identification card upon application to the Division.

27 (c1) When there is a transfer of ownership, management or operation of a
28 structural pest control business or in the event of the death or disability of a licensee
29 there shall be not more than a total of 90 days during any 12-month period in which said
30 business shall operate without a license assigned to it.

31 The owner, partnership, corporation, or other entity operating said business shall,
32 within 10 days of such transfer or disability or within 30 days of death, designate in
33 writing to the Division a certified applicator who shall be responsible for and in charge
34 of the structural pest control operations of said business during the 90-day period. If the
35 owner, partnership, corporation or other entity operating the business fails to designate a
36 certified applicator who shall be responsible for the operation of the business during the
37 90-day period, the business shall cease all structural pest control activities upon
38 expiration of the applicable notification period and shall not resume operations until a
39 certified applicator is so designated.

40 During the 90-day period the use of any restricted use pesticide shall be by or under
41 the direct supervision of the certified applicator designated in writing to the Division.
42 The designated certified applicator shall be responsible for correcting all deviations on
43 all existing contracts and for all work performed under his supervision.

1 The new licensee shall be responsible for correcting all deviations on all existing
 2 contracts and for all work performed under his supervision.

3 (d) The Committee shall by regulation provide for:

- 4 (1) Establishing categories of certified applicators, along with such
 5 appropriate subcategories as are necessary, to meet the requirements
 6 of this Article;
 7 (2) All licensees licensed prior to October 21, 1976, to become qualified
 8 as certified applicators; and
 9 (3) Requalifying certified applicators thereafter as required by the
 10 federal government at intervals no more frequent than that specified
 11 by federal law and federal regulations."

12 Sec. 4. G.S. 106-65.28 reads as rewritten:

13 **"§ 106-65.28. Revocation or suspension of license or identification card.**

14 (a) Any license or certified applicator's identification card or ~~operator's-registered~~
 15 technician's identification card may be denied, revoked or suspended by a majority vote
 16 of the Committee for any one or more of the following causes:

- 17 (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the
 18 making of a false statement with knowledge of its falsity for the
 19 purpose of inducing others to act thereon to their damage; or the use
 20 of methods or materials which are not reasonably suitable for the
 21 purpose contracted.
 22 (2) Failure of the licensee or certified applicator to give the Committee,
 23 the Commissioner, or their authorized representatives, upon request,
 24 true information regarding methods and materials used, or work
 25 performed.
 26 (3) Failure of the licensee or licensee holder ~~[or]~~ certified applicator to
 27 make registrations herein required or failure to pay the registration
 28 fees.
 29 (4) Any misrepresentation in the application for a license or certified
 30 applicator's identification card or ~~operator's-registered technician's~~
 31 identification card.
 32 (5) Willful violation of any rule or regulation adopted pursuant to this
 33 Article.
 34 (6) Aiding or abetting a licensed or unlicensed person or a certified
 35 applicator or a noncertified person to evade the provisions of this
 36 Article, combining or conspiring with such a licensed or unlicensed
 37 person or a certified applicator or noncertified person to evade the
 38 provisions of this Article, or allowing one's license, licensee or
 39 certified applicator's identification card or ~~operator's-registered~~
 40 technician's identification card, card to be used by any person other
 41 than the individual to whom it has been issued. ~~an unlicensed or~~
 42 ~~noncertified person.~~
 43 (7) Impersonating any State, county or city inspector or official.

- 1 (8) Storing or disposing of containers or pesticides by means other than
2 those prescribed on the label or adopted regulations.
- 3 (9) Using any ~~registered~~ pesticide in a manner inconsistent with its
4 labeling.
- 5 (10) Payment, or the offer to pay, by any licensee to any party to a real
6 estate transaction of any commission, bonus, rebate, or other thing of
7 value as compensation or inducement for the referral to such
8 licensee of structural pest control work arising out of such
9 transaction.
- 10 (11) Falsification of records required to be kept by this Article or the
11 rules and regulations of the Committee.
- 12 (12) Failure of a licensee or certified applicator to pay the original or
13 renewal license or identification card fee when due and continuing to
14 operate as a licensee or a certified applicator.
- 15 (13) Conviction of a felony or conviction of a violation of G.S. 106-65.28
16 within five years preceding the date of application for a license or a
17 certified applicator's identification card or conviction of any said
18 crimes while such license or card is in effect.
- 19 (b) Suspension of any license or certified applicator's identification card or
20 ~~operator's-registered technician's~~ identification card under the provisions of this Article
21 shall not be for less than 10 days nor more than two years, in the discretion of the
22 Committee.
- 23 (c) If a license or certified applicator's identification card or ~~operator's-registered~~
24 technician's identification card is suspended or revoked under the provisions hereof, the
25 licensee shall within five days of such suspension or revocation, surrender all licenses
26 and identification cards issued thereunder to the Commissioner or his authorized
27 representative.
- 28 (d) Any licensee whose license or certified applicator or operator whose
29 identification card is revoked under the provisions of this Article shall not be eligible to
30 apply for a new license or certified applicator's identification card or ~~operator's~~
31 registered technician's identification card hereunder until two years have elapsed from
32 the date of the order revoking said license or certified applicator's identification card or
33 ~~operator's-registered technician's~~ identification card or if an appeal is taken from said
34 order of revocation, two years from the date of the order or final judgment sustaining
35 said revocation.
- 36 (e) The lapsing of a State structural pest control license or certified applicator's
37 identification card or ~~operator's-registered technician's~~ identification card by operation of
38 law or the voluntary surrender of said license or said card shall not deprive the
39 Committee of jurisdiction to proceed with any investigation or disciplinary proceedings
40 against such licensee or card holder or to render a decision suspending or revoking such
41 license or card.
- 42 (f) The Committee may deny an application for a license, a certified applicator's
43 identification card or a registered technician's identification card of any person whose

1 license, certified applicator's identification card or equivalent thereto has been
2 suspended or revoked in another state within two years prior to the application."

3 Sec. 5. G.S. 106-65.29 reads as rewritten:

4 **"§ 106-65.29. Rules and regulations.**

5 In order to ensure that persons licensed and certified under this Article are capable of
6 performing a high quality of workmanship, the Committee is hereby authorized and
7 empowered to make rules and regulations with respect to:

- 8 (1) The amount and kind of training required of an applicant for a
9 license and certified applicator's card to engage in any one or more
10 of the three phases of structural pest control, and the amount and
11 kind of training required of an applicant for ~~an operator's~~ a registered
12 technician's identification card.
- 13 (2) The type, frequency and passing score of any examination given an
14 applicant for a license and certified applicator's card under this
15 Article.
- 16 (3) The amount, kind and frequency of continuing education required of
17 a licensee and certified applicator.
- 18 (4) The methods and materials to be used in performing any work
19 authorized by the issuance of a license and certified applicator's card
20 under this Article.
- 21 (5) The business records to be made and maintained by licensees and
22 certified applicators under this Article necessary for the Committee
23 to determine whether the licensee and certified applicator is
24 performing a high quality of workmanship.
- 25 (6) The credentials and identification required of licensees and certified
26 applicators, their employees and equipment, including service
27 vehicles, when engaged in any work defined under this Article.
- 28 (7) Safety methods and procedures for structural pest control work.
- 29 (8) Fees for reinspection following a finding of a ~~discrepancy,~~ deviation,
30 as defined by the Committee.
- 31 (9) Fees for training materials provided by the Committee or the
32 Division. Such fees may be placed in a revolving fund to be used for
33 training and continuing education purposes and shall not revert to
34 the General Fund.
- 35 (10) The policies and programs set forth in this Article."

36 Sec. 6. G.S. 106-65.30 reads as rewritten:

37 **"§ 106-65.30. Inspectors; inspections and reports of violations; designation of**
38 **resident agent.**

39 For the enforcement of the provisions of this Article the Commissioner is
40 authorized to appoint one or more qualified inspectors and such other employees as are
41 necessary in order to carry out and enforce the provisions of this Article. The inspectors
42 shall be known as 'structural pest control inspectors.' The Commissioner shall enforce
43 compliance with the provisions of this Article by making or causing to be made
44 periodical and unannounced inspections of work done by licensees and certified

1 applicators under this Article who engage in or supervise any one or more phases of
2 structural pest control as defined in G.S. 106-65.25. The Commissioner shall cause the
3 prompt and diligent investigation of all reports of violations of the provisions of this
4 Article and all rules and regulations adopted pursuant to the provisions hereof;
5 provided, however, no inspection shall be made by a representative of the
6 Commissioner of any property without first securing the permission of the owner or
7 occupant thereof.

8 Prior to the issuance or renewal of a license or certified applicator's identification
9 card, every nonresident owner of a business performing any phase of structural pest
10 control work shall designate in writing to the Commissioner or his authorized agent a
11 resident agent upon whom service of notice or process may be made to enforce the
12 provisions of this Article and rules and regulations adopted pursuant to the provisions
13 hereof or any civil or criminal liabilities arising hereunder.

14 The Commissioner shall have authority to appoint personnel of the Structural Pest
15 Control Division as special inspectors and said special inspectors are hereby vested with
16 the authority to arrest with a warrant, or to arrest without a warrant when a violation of
17 this Article is being committed in their presence or they have reasonable grounds to
18 believe that a violation of this Article is being committed in their presence. Said special
19 inspectors shall take offenders before the several courts of this State for prosecution or
20 other proceedings. The provisions of this section do not apply to any person holding a
21 valid structural pest control license, or a certified applicator's identification card, or an
22 operator's-a registered technician's identification card as issued under the provisions of
23 this Article. Special inspectors shall not be entitled to the benefits of the Law
24 Enforcement Officers' Benefit and Retirement Fund or the benefits of the Law
25 Enforcement Officers' and Others Death Benefit Act as provided for in Articles 12 and
26 12A of Chapter 143 of the General Statutes, respectively."

27 Sec. 7. G.S. 106-65.31 reads as rewritten:

28 "**§ 106-65.31. Annual certified applicator card and license fee; registration of**
29 **servicemen, salesmen, solicitors, and estimators; identification cards.**

30 (a) Certified Applicator's Identification Card. – The fee for issuance or renewal
31 of a certified applicator's identification card ~~for any one phase or more of structural pest~~
32 ~~control, as the same is defined in G.S. 106-65.25, shall be thirty dollars (\$30.00).~~ (\$30.00)
33 for each phase or subphase of structural pest control. Within 75 days after the
34 employment of a certified applicator, the licensee shall apply to the Division for the
35 issuance of a certified applicator's identification card. A certified ~~Certified~~ applicator's
36 identification card ~~cards~~ shall expire on June 30 of each year and shall be renewed
37 annually. All certified applicators who fail or neglect to renew their ~~certified applicator's~~
38 ~~identification card issued under the provisions of this Article~~ on or before June 30 of each
39 ~~year in which they hold a valid certified applicator's identification card~~ but make application
40 before January ~~October~~ 1 of the following that ~~year may have their card~~ shall be
41 renewed without the applicant ~~having to be reexamined unless under the provisions of this~~
42 ~~Article~~ the applicant is scheduled for periodic reexamination under regulations adopted
43 pursuant to G.S. 106-65.27(e)(3). ~~(G.S. 106-65.27(e)(2) [106-65.27(d)(3)]).~~ All applicants
44 submitting applications for the renewal of their ~~certified applicator's identification cards~~

1 after June 30 and before October 1 of that year shall (i) not use or supervise the use of
2 any restricted use pesticides after June 30 of that year until he has been issued a valid
3 certified applicator's identification a new card has been issued. and (ii) pay, in addition to
4 the annual certification fee, the sum of five dollars (\$5.00) for each phase of structural pest
5 control in which he is applying for certification before his certified applicator's identification
6 card is renewed.

7 Any certified applicator whose employment is terminated with a licensee or agent
8 prior to the end of any said license year may at any time prior to the end of the said
9 license year be reissued a certified applicator's identification card for the remainder of
10 the license year as an employee of another licensee or agency or as an individual for a
11 fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or
12 change in status of any certified applicator.

13 Any certified applicator whose identification card is lost or destroyed or changed in
14 any way may be reissued a new secure a duplicate identification card for the remainder of
15 the license year for a fee of five dollars (\$5.00).

16 ~~The fees for a certified applicator's identification shall not apply to agents or~~
17 ~~agencies of the federal, State, or local governments.~~

18 (b) License. – The fee for the issuance or renewal of a license for any one phase of
19 structural pest control control, as the same is defined in G.S. 106-65.25, shall be one
20 hundred dollars (\$100.00). ~~(\$100.00);~~ provided, that when or any time after the fee for a
21 license for any one phase is paid, the holder of said license may secure a license for either or
22 both of the other two phases for an additional fee of Each additional phase shall be fifty
23 dollars (\$50.00). The fee for each subphase shall be ten dollars (\$10.00). ~~(\$50.00) per~~
24 ~~license phase.~~ Licenses shall expire on June 30 of each year and shall be renewed
25 annually. All licensees Any licensee who fail fails or neglect neglects to renew their any
26 license issued under the provisions of this Article on or before August 1 of each year shall
27 pay, in addition to the annual fee, the sum of ten dollars (\$10.00) for each phase before his
28 license is renewed. June 30, but who make application before January 1 of the following
29 year, may have their license renewed without having to be reexamined, unless the
30 applicant is scheduled for periodic reexamination under regulations adopted pursuant to
31 G.S. 106-65.27(e)(3). No structural pest control work may be performed until the
32 license has been renewed or until a new license has been issued.

33 Any licensee whose employment is terminated by his employer or any licensee who
34 is transferred to another company or location other than the company or location shown
35 on his license certificate, may at any time, have his license reissued for the remainder of
36 the license year for a fee of ten dollars (\$10.00).

37 Any licensee whose license is lost or destroyed may secure a duplicate license for a
38 fee of ten dollars (\$10.00).

39 ~~Any licensee whose license is lost or destroyed may secure a duplicate license for a~~
40 ~~fee of five dollars (\$5.00).~~

41 A license holder shall register with the North Carolina Department of Agriculture
42 within 75 days of employment the names of all certified applicators, estimators,
43 salesmen, servicemen and solicitors (not common laborers) and shall pay a registration
44 fee of twenty dollars (\$20.00) for each name registered, which fee shall accompany the

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

14 It shall be unlawful for an estimator, serviceman, salesman or solicitor to engage in
15 the performance of any work covered by this Article without having first secured and
16 having in his possession an identification card. It shall be unlawful for a licensee to
17 direct or procure any salesman, serviceman or estimator to engage in the performance of
18 any work covered by this Article without having first applied for an identification card
19 for such employee or agent; provided, however, that the licensee shall have 75 days
20 after employing a serviceman, salesman or estimator within which to apply for an
21 identification card.

22 All registrations and applications for licenses and identification cards shall be filed
23 with the North Carolina Department of Agriculture.

24 (b1) Registration. Within 75 days after the hiring of an employee who is either an
25 estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for
26 the issuance of an identification card for such employee. The application must be
27 accompanied by a fee of twenty dollars (\$20.00) for each card. The card shall be issued
28 in the name of the employee and shall bear the name of the employing licensee, the
29 employer's license number and phases, the name and address of the employer's business,
30 and such other information as the Committee may specify. The identification card shall
31 be carried by the employee on his person at all times while performing any phase of
32 structural pest control work. The card must be displayed upon demand by the
33 Commissioner, the Committee, the Division, or any representative thereof, or the person
34 for whom any phase of structural pest control work is being performed. A registered
35 technician's identification card must be renewed annually on or before June 30 by
36 payment of a renewal fee of twenty dollars (\$20.00). If a card is lost or destroyed the
37 licensee may secure a duplicate for a fee of five dollars (\$5.00). The licensee shall
38 notify the Division of the termination or change in status of any registered technician.
39 All identification cards expire when a license expires.

40 When a license is reissued, the licensee shall be responsible for registering and
41 securing identification cards for all existing employees who engage in structural pest
42 control within 10 days of the reissuance of the license.

43 A certified applicator who is not an employee of a licensed individual shall register
44 the names of all employees under his supervision who are engaged in the performance

1 of structural pest control with the Division and shall purchase a registered technician's
2 identification card for each such employee.

3 (b2) No person shall act as an estimator, serviceman, salesman, solicitor, or agent
4 for any licensee under this Article nor shall any such person be issued an identification
5 card by the ~~Structural Pest Control~~ Committee who has within three years of the date of
6 application for an identification card been convicted of, plead guilty or nolo contendere,
7 or forfeited bond in any ~~court~~, State or federal court for a felony ~~federal~~, to a crime
8 ~~involving moral turpitude~~ or to any violation of the North Carolina Structural Pest
9 Control Act or to any regulation promulgated by the ~~Structural Pest Control~~ Committee.
10 This provision shall not apply to any person whose citizenship has been restored as
11 provided by law.

12 (b3) No person or business shall advertise as a contractor for structural pest
13 control services nor actually contract for such services unless that person or business
14 advertises or contracts in the name of the company shown on the license certificate of
15 the licensee or identification card of the certified applicator who will perform the
16 services.

17 (c) Notwithstanding any other provision of this law, the Committee may adopt
18 rules to provide for the issuance of licenses, certified applicator's cards, and ~~operator's~~
19 registered technician's identification cards with staggered expiration dates and may
20 prorate renewal fees on a monthly basis to implement such rules."

21 Sec. 8. G.S. 106-65.41 reads as rewritten:

22 "**§ 106-65.41. Civil penalties.**

23 A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by
24 the Committee against any person for any one or more of the causes set forth in G.S.
25 106-65.28(a)(1) through (12). ~~(11)~~.—In determining the amount of any penalty, the
26 Committee shall consider the degree and extent of harm caused by the violation. No
27 civil penalty may be assessed under this section unless the person has been given an
28 opportunity for a hearing pursuant to Chapter 150B of the General Statutes.
29 Assessments may be collected, following judicial review, if any, of the Committee's
30 final decision imposing the assessment, in any lawful manner for the collection of a
31 debt."

32 Sec. 9. This act shall become effective October 1, 1989.