

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 262

HOUSE BILL 2189

AN ACT

AMENDING SECTION 32-2304, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1998, CHAPTER 142, SECTION 4; REPEALING SECTION 32-2304, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 113, SECTION 128; AMENDING SECTION 32-2317, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO THE STRUCTURAL PEST CONTROL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2304, Arizona Revised Statutes, as amended by
3 Laws 1998, chapter 142, section 4, is amended to read:

4 32-2304. Powers and duties; executive director

5 A. The commission shall:

6 1. Adopt rules which are necessary or proper for the administration
7 of this chapter, including administrative provisions and health and safety
8 provisions for the use, storage and application of pesticides and devices
9 used in structural pest control.

10 2. Adopt rules governing pretreatment.

11 3. Administer and enforce this chapter and rules adopted pursuant to
12 this chapter.

13 4. Maintain a record of its acts and proceedings, including the
14 issuance, refusal, renewal, suspension or revocation of licenses,
15 registrations, qualifications and certificates.

16 5. At least thirty days before adoption of a rule, form or policy,
17 mail a copy of notice of a proposed rule, form or policy adoption, including
18 the text of the proposed rule, form or policy, to each business licensee who
19 has made a request to the commission, except that if the commission finds
20 that adoption of a rule is necessary for immediate preservation of the public
21 peace, health and safety and that notice is impractical, unnecessary or
22 contrary to public interest it may adopt a rule without prior notice. Within
23 thirty days after the adoption of a statute by the legislature or
24 certification of a rule by the attorney general, the commission shall notify
25 all business licensees in writing.

26 6. Hire inspectors as needed, considering recommendations of the
27 executive director.

28 7. On receipt of a complaint or initiation of a complaint by the
29 commission, notify the business licensee and qualifying party in writing of
30 the complaint against the business licensee by the close of business on the
31 second business day after the day on which the commission received or
32 initiated the complaint.

33 8. On the request of any party, issue subpoenas for the taking of
34 depositions, the production of documents and things and the entry on land for
35 inspection and measuring, surveying, photographing, testing or sampling the
36 property or any designated object or operation on the property relevant to
37 the complaint.

38 9. List any complaint it plans to discuss at a public meeting in the
39 agenda for the meeting.

40 10. Make certified applicator and qualifying party study materials
41 available, at the commission's actual costs, to any interested person.

42 11. Conduct or contract to conduct certified applicator and qualifying
43 party tests at locations throughout this state. If the commission contracts
44 for these tests, the contracts may provide for specific examination fees or

1 a reasonable range of fees determined by the commission to be paid directly
2 to the contractor by the applicant. THE COMMISSION SHALL MAKE ALL EFFORTS
3 TO CONTRACT WITH PRIVATE PARTIES TO ELECTRONICALLY ADMINISTER THE CERTIFIED
4 APPLICATOR AND QUALIFYING PARTY TESTS.

5 12. Require a business licensee to provide written notice immediately
6 following a pest control treatment in or around residential structures of one
7 or two units to the person requesting the treatment or to the person's
8 designated agent. The notice shall include the specific chemical by trade
9 name used in the treatment.

10 13. Require a business licensee performing pest control treatments on
11 an ongoing basis to locations other than residential structures of one or two
12 units to provide written notice in accordance with commission standards to
13 the person who requested the treatments or the person's designated agent.
14 Notice shall be given before the first application of the chemical and
15 whenever new or additional chemicals are to be used or immediately after each
16 treatment. If the treatments are performed in the interior of residential
17 units, the licensee shall leave a similar notice in the interior of each
18 treated unit immediately after each treatment.

19 14. Within thirty days of completion of a pretreatment project, initial
20 termite corrective treatment project or wood infestation report, require the
21 business licensee to file with the commission, in a form approved by the
22 commission, all data required by the commission. The data shall MAY include:

- 23 (a) The name of the individual who performed the work.
- 24 (b) The address or location of the work or project.
- 25 (c) The type and the date of the work.
- 26 (d) The name of the pest control company.
- 27 (e) The name of the qualifying party.
- 28 (f) The certified applicator certificate LICENSE numbers.
- 29 (g) Any other information required by the commission IN ITS RULES.

30 15. Within one hundred eighty days of completion of an initial
31 pretreatment project, require the business licensee to file a supplemental
32 termite action report in a form provided by the commission indicating the
33 completion of the final grade treatment or to request in writing a waiver
34 that indicates why the treatment has not been completed and when it will be
35 completed.

36 16. Refer all pretreatment cases involving alleged criminal fraud to
37 the criminal fraud division of the attorney general's office and refer any
38 case determined by the commission to contain information relating to a
39 possible felony to the proper law enforcement agency.

40 17. Maintain a computer system which records FOR THE BENEFIT AND
41 PROTECTION OF THE PUBLIC THAT MAY INCLUDE the following information on
42 pretreatment projects, initial termite corrective projects, preventative
43 termite treatments and wood infestation reports:

- 44 (a) The name of the individual who performed the work.

- 1 (b) The address or location of the work or project.
2 (c) The name of the pest control company.
3 (d) The name of the qualifying party.
4 (e) The certified applicator certificate LICENSE numbers.
5 (f) The nature and date of the work performed.
6 (g) Any other information required by the commission IN ITS RULES.
7 18. Refer all cases for initial hearing to a ~~hearing officer~~ AN
8 ADMINISTRATIVE LAW JUDGE.
9 19. Establish an office and branch offices it deems necessary to carry
10 out the purposes of this chapter.
11 20. Employ an executive director and other permanent or temporary
12 personnel, ~~including hearing officers~~, it deems necessary to carry out the
13 purposes of this chapter and designate their duties.
14 21. Investigate violations of this chapter and rules adopted pursuant
15 to this chapter.
16 22. Adopt minimum standards for pesticide applications.
17 23. Adopt minimum standards for certified applicators.
18 24. Adopt rules regarding continuing education.
19 25. Require a business licensee, qualifying party, certified applicator
20 or registered employee to permit a commission inspector to be present on a
21 jobsite in connection with a contemporaneous pest control treatment for the
22 purpose of taking chemical samples, soil samples or any other samples for
23 purposes of testing the type and quantity of chemicals used.
24 26. Deny a license to any person subject to a previous revocation of
25 the person's license for a period of ten years from the time of revocation.
26 27. Adopt by rule a nonexclusive list of acts and omissions that
27 constitute de minimis violations.
28 28. ADOPT RULES REGARDING THE SUBMISSION OF ELECTRONIC DATA TO A
29 DATABASE THAT IS MAINTAINED BY THE COMMISSION. THE RULES SHALL SPECIFY ALL
30 OF THE FOLLOWING:
31 (a) THE INFORMATION TO BE SUBMITTED ELECTRONICALLY.
32 (b) THE EXCEPTIONS TO THE SUBMISSION REQUIREMENTS.
33 (c) THE INFORMATION IN THE DATABASE THAT IS:
34 (i) CONFIDENTIAL.
35 (ii) ACCESSIBLE ONLY TO A LICENSEE.
36 (iii) ACCESSIBLE TO THE PUBLIC.
37 B. The commission may:
38 1. Compel attendance of witnesses, administer oaths or affirmations
39 and take testimony concerning all matters coming within its jurisdiction.
40 2. Receive criminal history record information from the department of
41 public safety and other law enforcement agencies during investigations.
42 3. Enter into intergovernmental agreements.

1 4. With at least twenty-four hours' notice, request specific records
2 from a business licensee, qualifying party or certified applicator at the
3 person's place of business during normal business hours.

4 5. Adopt rules setting forth procedures for providing notice to
5 business licensees of requests for records and methods of compliance for
6 business licensees. The rules may:

7 (a) Specify that the qualifying party or certified applicator in
8 charge of the office is responsible for complying with record requests by the
9 commission.

10 (b) Provide that a failure to timely comply with a records request may
11 be excused on a showing of good cause by the business licensee.

12 6. Charge to the holder of a business license the actual cost of
13 providing mailed copies of rules, forms or policies proposed for adoption.

14 7. Require a business licensee that undergoes a change of name or
15 ownership status or that sells all or a part of the business to:

16 (a) Report to the commission within ten business days the status of
17 all warranties issued by the licensee.

18 (b) Notify within ten business days all persons who hold warranties
19 issued by the licensee regarding the change.

20 8. Hire independent contractors to conduct inspections and take
21 chemical samples, soil samples or any other samples for purposes of testing
22 the type and quantity of chemicals used in connection with pest control
23 treatment.

24 9. Issue advisory notices for de minimis violations.

25 10. Notify a business licensee, qualifying party or certified
26 applicator of all requests for review of the business licensee's, qualifying
27 party's or certified applicator's records within ten business days of the
28 request.

29 11. Maintain a ratio of at least one inspector to every two hundred
30 industry members, including qualifying parties and registered employees, and
31 the commission shall maintain a ratio of at least one inspection supervisor
32 for every eight inspectors. Inspectors shall be certified pursuant to
33 article 4 of this chapter in all categories within their scope of work within
34 their probationary period. Inspectors shall attend and complete an
35 investigative training class prescribed by the commission within their
36 probationary period.

37 C. Each completed form for a pretreatment project, initial termite
38 corrective treatment project or wood infestation report shall be accompanied
39 by a fee. The initial fee is eight dollars. The commission may adjust the
40 fee upward or downward to a level calculated to produce sufficient revenue
41 to carry out the functions prescribed under this section. The commission may
42 assess a penalty of not to exceed one hundred dollars per form for failing
43 to submit the required form and fee within thirty days.

44 D. The executive director shall serve at the pleasure of the

1 commission. Compensation for the executive director and employees shall be
2 determined pursuant to section 38-611.

3 E. Subject to the limitations of section 41-2544, the executive
4 director may enter into agreements for the purpose of enabling the commission
5 to accept payment for fees imposed under this chapter by alternative payment
6 methods, including credit cards, charge cards, debit cards and electronic
7 funds transfers. Before the monies are transferred to the executive director
8 pursuant to section 32-2305, the person collecting the fees shall deduct any
9 amount charged or withheld by a company providing the alternative payment
10 method under an agreement with the commission.

11 F. In the enforcement of this article, the commission or any of its
12 duly authorized agents may enter with the authority of a warrant issued by
13 a court of competent jurisdiction at reasonable times on any private or
14 public property on which pesticides are located or are reasonably believed
15 to be located to be used for purposes related to structural pest
16 control. The owner, managing agent or occupant of the property shall permit
17 entry for the purpose of inspecting and investigating conditions relating to
18 the use, storage, application and disposal of pesticides.

19 G. The commission shall not delegate to its staff the powers and
20 duties listed under:

21 1. Subsection A, paragraphs 1, 2, 3, 15, 17, 19, 21, 22, 23, 25 and
22 26 of this section.

23 2. Subsection B, paragraphs 3, 5 and 8 of this section.

24 Sec. 2. Repeal

25 Section 32-2304, Arizona Revised Statutes, as amended by Laws 2000,
26 chapter 113, section 128, is repealed.

27 Sec. 3. Section 32-2317, Arizona Revised Statutes, is amended to read:
28 32-2317. Fees

29 A. The commission shall establish and collect fees that may include
30 service charges allowed pursuant to section 32-2304 for persons who pay with
31 alternative payment methods, including credit cards, charge cards, debit
32 cards and electronic transfers, but that may not exceed the following
33 amounts:

34 1. ~~Qualifying party examination and~~ Initial qualifying party
35 qualification fee, one hundred fifty dollars.

36 2. Qualifying party qualification renewal fee, one hundred fifty
37 dollars.

38 3. Qualifying party qualification inactive status, twenty-five
39 dollars.

40 4. Temporary qualifying party qualification, twenty-five dollars.

41 5. Initial business license fee, one hundred dollars.

42 6. Business license renewal fee, one hundred dollars.

43 7. Initial branch office registration fee, fifty dollars.

44 8. Branch office registration renewal fee, fifty dollars.

Passed the House March 21, 2002,

Passed the Senate April 25, 2002,

by the following vote: 41 Ayes,

by the following vote: 29 Ayes,

14 Nays, 5 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

H.B. 2189

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 15, 2002,

by the following vote: 40 Ayes,

18 Nays, 2 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of May, 2002,

at 3:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 21st day of

May, 2002,

at 10:10 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2189

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 2002,

at 12:13 o'clock P. M.

[Signature]
Secretary of State