House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 65

HOUSE BILL 2211

AN ACT

AMENDING SECTION 32-2311, ARIZONA REVISED STATUTES; RELATING TO THE OFFICE OF PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 32-2311, Arizona Revised Statutes, is amended to read:

32-2311. Persons not required to be licensed; civil penalties; definition

A. This chapter does not apply to:

1. Persons licensed or certified pursuant to title 3, chapter 2, article 6.

2. Persons applying pesticides on property that they own and occupy.

3. Authorized representatives of any educational institution engaged in research in the study of pest management or a state agency engaged in research or the study of pest management.

4. Employees of political subdivisions or their designated agents while performing emergency response or rescue services.

5. Persons using a nonrestricted, ready to use disinfectant, sanitizer or deodorizer.

6. Except as provided in section 32-2307, persons who are conducting lawn, garden, shrub or tree maintenance and who apply herbicides for the purpose of weed management. This exemption does not apply to:

(a) The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.

(b) The use of sterilants.

(c) Persons who offer weed management as their primary service.

(d) Persons who use application equipment that holds more than eight gallons of total mixed liquid herbicide.

(e) Persons who use more than twenty-five pounds of a nonliquid herbicide.

(f) Persons who do not follow label and labeling directions.

7. A utility and the utility's employees if pest management services are needed for an employee's health and safety in order for the employee to continue performing work tasks.

8. EXCEPT AS PROVIDED IN SECTION 32-2307, VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO APPLY HERBICIDES FOR THE PURPOSE OF THE ERADICATION AND CONTROL OF NOXIOUS WEEDS AS DEFINED IN SECTION 3-201 AND WHO ARE UNDER THE IMMEDIATE SUPERVISION OF A LICENSED APPLICATOR. THIS EXEMPTION DOES NOT APPLY TO:

(a) THE USE OF HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED USE" OR "DANGER" AND THAT ARE NOT COMMERCIALLY AVAILABLE TO THE GENERAL PUBLIC.

(b) THE USE OF STERILANTS.

(c) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO USE APPLICATION EQUIPMENT THAT HOLDS MORE THAN EIGHT GALLONS OF TOTAL MIXED LIQUID HERBICIDE.

(d) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO USE MORE THAN TWENTY-FIVE POUNDS OF A NONLIQUID HERBICIDE.

(e) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO DO NOT FOLLOW LABEL AND LABELING DIRECTIONS.

(f) VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO HAVE NOT COMPLETED AN OFFICE OF PEST MANAGEMENT APPROVED HERBICIDE APPLICATION TRAINING PROGRAM CONDUCTED BY THE POLITICAL SUBDIVISION.

B. An employee of a political subdivision who engages in pest management:

1. Is not required to be licensed under section 32-2313 or 32-2314.

2. Must be licensed as an applicator under section 32-2312, except as provided by subsection A, paragraph 4 of this section.

C. A person who is exempt pursuant to subsection A, paragraph 6 of this section shall provide treatment records to each customer on application of herbicides for the purpose of weed management and shall retain records containing the same information provided to customers. For the purposes of this subsection, treatment records shall include all of the following:

1. The address of the location of the herbicide application.

2. The date of the herbicide application.

3. The trade name or common name of the herbicide applied.

D. If a person is exempt pursuant to subsection A, paragraph 6 of this section but does not comply with subsection C of this section or if a person is not licensed under this chapter and the person is not exempt pursuant to subsection A, paragraph 6 of this section as a result of doing something prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this section, the acting director shall:

1. On a first violation, issue a written notice of correction that contains a warning and a copy of this section and that provides full notice of the exemption requirements.

2. On a second violation, impose a civil penalty of not more than two hundred fifty dollars.

3. On a third or any subsequent violation, impose a civil penalty of not more than five hundred dollars.

E. VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO ARE NOT WORKING UNDER THE IMMEDIATE SUPERVISION OF A LICENSED APPLICATOR MAY BE SUBJECT TO SECTION 32-2304, SUBSECTION D, PARAGRAPH 12.

F. FOR THE PURPOSES OF THIS SECTION, "VOLUNTEERS OF POLITICAL SUBDIVISIONS" MEANS PERSONS WHO WORK WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT OF ACTUAL EXPENSES INCURRED OR DISBURSEMENT OF MEALS OR OTHER INCIDENTAL BENEFITS.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.

Passed the House February 22, 20 10

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 7, 20 10

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 20 10

at 8:50 o'clock A. M.

Secretary to the Governor

Approved this 16th day of

April

at 5:00 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 19th day of April, 20 10

at 11:40 o'clock a M.

Secretary of State

H.B. 2211