

Amendment No. 849

Senate Amendment to Assembly Bill No. 228

(BDR 49-626)

Proposed by: Senate Committee on Natural Resources**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

JRS/TMC



Date: 5/20/2007

A.B. No. 228—Revises provisions governing licenses to engage in pest control.
(BDR 49-626)



ASSEMBLY BILL NO. 228—COMMITTEE ON
NATURAL RESOURCES, AGRICULTURE, AND MINING

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

MARCH 1, 2007

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions governing licenses to engage in pest control.
(BDR 49-626)

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: No.

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

AN ACT relating to pest control; authorizing the Director of the State Department of Agriculture to refuse to issue a license to engage in pest control to a person who is convicted of certain ~~facts; prohibiting the Director from issuing such a license until the expiration of the period of the person's parole, probation or sentence;~~ **crimes; requiring an applicant for a license to engage in pest control to submit a complete set of his fingerprints to the Director under certain circumstances;** prohibiting a person ~~[, in connection with a real estate transaction,]~~ from engaging in certain pest control activities concerning wood-destroying pests or organisms without a license issued by the Director; **providing additional grounds for the Director to revoke, suspend or modify a license to engage in pest control;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in pest control activities without a license issued by the Director of the State Department of Agriculture. (NRS 555.280) "Pest control" means the business of using pesticides and mechanical devices to control infestations of pests and the inspection for hire of houses and other structures. The term also includes the submission of reports, estimates or bids for the inspection or control of wood-destroying pests. (NRS 555.2667) Existing law further prohibits a person from engaging in various pest control activities concerning wood-destroying pests or organisms without a license issued by the Director, including, without limitation, ~~conducting an inspection to identify or attempt to identify infestations or infections of houses by those pests and;~~ preparing inspection reports concerning ~~the infestations or infections;~~ **those pests or organisms.** (NRS 555.285)

Section 1 of this bill authorizes the Director to refuse to issue a license to ~~engage in~~ perform pest control to ~~a person who is~~ **certain persons who are** convicted of, or ~~enters~~ enter a plea of guilty or nolo contendere to, ~~certain specified crimes, including, without limitation,~~ **a felony or** any crime involving moral turpitude. Section 1 also ~~prohibits the Director from issuing~~ **requires an applicant for** a license to engage in pest control ~~to such a person until the expiration of the person's parole, probation or sentence,~~ **who is a primary principal or intends to act as a primary principal for a pest control business to submit a complete set of his fingerprints to the Director.** Additionally, section 1 sets forth grounds for the Director to refuse to issue ~~such~~ a license ~~to~~ **to perform pest control.**

Section 3 of this bill prohibits a person from ~~engaging in certain pest control activities~~ **altering an inspection report** concerning wood-destroying pests or organisms without a license issued by the Director. ~~if the pest control activities are conducted in connection with a real estate transaction. Those pest control activities include: (1) making an inspection to identify or attempt to identify infestations or infections of wood-destroying pests or organisms; (2) making or altering inspection reports concerning those infestations or infections; (3) making written or oral estimates or bids concerning the infestations or infections; and (4) submitting bids to do any work involving the application of pesticides to eliminate, exterminate, control or prevent the infestations or infections.)~~

Existing law authorizes the Director to revoke, suspend or modify a license to engage in pest control if he finds that the licensee has engaged in certain activities. (NRS 555.350)

Section 3.5 of this bill expands those activities to include a conviction of the licensee of a felony or any crime involving moral turpitude.

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

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

1. ~~The Director~~ **§**

~~(a) May~~ **may** refuse to issue a license to ~~engage in~~ **perform** pest control to any person who ~~has~~ **:**

~~(a) Is a primary principal or intends to act as a primary principal for a pest control business pursuant to NRS 555.3507; and~~

~~(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in pest control without a license, possessing for the purpose of sale any controlled substance,~~ **a felony or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or any other country.**

~~(b) Shall not issue a license to engage in pest control to a person specified in paragraph (a) until the expiration of the period of the person's parole, probation or sentence.~~

2. In addition to any other requirements set forth in this chapter, each applicant for a license to perform pest control specified in paragraph (a) of subsection 1 shall submit with his application a complete set of his fingerprints and written permission authorizing the Director to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A suspension or revocation of a license to ~~engage in~~ perform pest control pursuant to NRS 555.350 or any previous revocation or current suspension of such a license in this or any other state, district or territory of the United States or any foreign country ~~within 10 years immediately preceding the~~

~~date of submission of an application for a license} is grounds for refusal to issue the license.~~

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

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

Sec. 3. NRS 555.285 is hereby amended to read as follows:

555.285 A person shall not , for hire ~~, for in connection with any real estate transaction,~~ engage in, offer to engage in, advertise or solicit to perform any of the following pest control activities concerning wood-destroying pests or organisms without a license issued by the Director:

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

2. Making *or altering* inspection reports concerning the infestations or infections.

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

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

Sec. 3.5. NRS 555.350 is hereby amended to read as follows:

555.350 1. The Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any license issued under NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, if he finds that:

(a) The licensee is no longer qualified;

(b) The licensee has engaged in fraudulent business practices in pest control;

(c) The licensee has made false or fraudulent claims through any media by misrepresenting the effect of materials or methods to be used;

(d) The licensee has applied known ineffective or improper materials;

(e) The licensee operated faulty or unsafe equipment;

(f) The licensee has made any application in a faulty, careless or negligent manner;

(g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, or regulations adopted pursuant thereto;

(h) The licensee engaged in the business of pest control without having a licensed applicator or operator in direct on-the-job supervision;

(i) The licensee aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, *and section 1 of this act*, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed one's license to be used by an unlicensed person;

(j) The licensee was intentionally guilty of fraud or deception in the procurement of his license; ~~for~~

(k) The licensee was intentionally guilty of fraud or deception in the issuance of an inspection report on wood-destroying pests or other report required by regulation ~~for~~; *or*

(l) The licensee has been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude in any court of competent jurisdiction in the United States or any other country.

2. A license is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to

1 NRS 555.330, is cancelled, and the license remains suspended until the insurance is
2 reestablished.

3 3. A licensee against whom the Director initiates disciplinary action to
4 revoke, suspend or modify the license of the licensee pursuant to this section
5 shall, within 30 days after receiving written notice of the disciplinary action from
6 the Director, submit to the Director a complete set of his fingerprints and written
7 permission authorizing the Director to forward the fingerprints to the Central
8 Repository for Nevada Records of Criminal History for submission to the Federal
9 Bureau of Investigation for its report.

10 4. A willful failure of a licensee to comply with the requirements of
11 subsection 3 constitutes an additional ground for the revocation, suspension or
12 modification of the license of the licensee pursuant to this section.

13 5. The Director has additional grounds to revoke, suspend or modify a
14 license pursuant to this section if the report from the Federal Bureau of
15 Investigation indicates that the licensee has been convicted of a felony or crime
16 specified in paragraph (l) of subsection 1.

17 **Sec. 4.** NRS 555.400 is hereby amended to read as follows:

18 555.400 1. The Director may adopt regulations to carry out the provisions
19 of NRS 555.2605 to 555.460, inclusive, ~~but the~~ **and section 1 of this act.** The
20 regulations must not be inconsistent with **any** regulations issued by this State or by
21 the Federal Government relating to safety in air navigation or **the** operation of
22 aircraft.

23 2. Before ~~issuing~~ **adopting** regulations directly relating to any matter within
24 the jurisdiction of any other officer of this State, the Director shall consult with that
25 officer ~~[with reference thereto.]~~ **concerning those regulations.**

26 **Sec. 5.** NRS 555.460 is hereby amended to read as follows:

27 555.460 Any person violating the provisions of NRS 555.2605 to 555.420,
28 inclusive, **and section 1 of this act,** or the regulations adopted pursuant thereto, is
29 guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the
30 Department an administrative fine of not more than \$5,000 per violation. If an
31 administrative fine is imposed pursuant to this section, the costs of the proceeding,
32 including investigative costs and attorney's fees, may be recovered by the
33 Department.

34 **Sec. 6.** NRS 555.470 is hereby amended to read as follows:

35 555.470 1. The Director shall adopt regulations specifying a schedule of
36 fines which may be imposed, upon notice and a hearing, for each violation of the
37 provisions of NRS 555.2605 to 555.460, inclusive ~~+~~, **and section 1 of this act.**
38 The maximum fine that may be imposed by the Director for each violation must not
39 exceed \$5,000 per day. All fines collected by the Director pursuant to this
40 subsection must be remitted to the county treasurer of the county in which the
41 violation occurred for credit to the county school district fund.

42 2. The Director may:

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

45 (b) Request the district attorney of the appropriate county to investigate or file
46 a criminal complaint against any person that the State Board of Agriculture suspects
47 may have violated any provision of NRS 555.2605 to 555.460, inclusive ~~+~~, **and**
48 **section 1 of this act.**

49 **Sec. 7.** This act becomes effective ~~upon passage and approval~~ **on**
50 **January 1, 2008.**