

ASSEMBLY BILL NO. 34—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing the control of pests, noxious weeds and pesticides. (BDR 49-272)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; defining the term “control” as it applies to the control of noxious weeds by the owner or operator of land; authorizing the Director of the State Department of Agriculture to adopt regulations that establish and administer a program to certify certain agricultural products as being free from propagative parts from which noxious weeds may grow; authorizing certain notices to be delivered by electronic mail; exempting certain businesses that sell nursery stock only to the public exclusively via the Internet from certain licensure requirements; revising the prohibition against engaging in certain activities involving pest control without a license; revising provisions governing the certification of persons to apply or supervise the application of restricted-use pesticides; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 During the 2015 Legislative Session, Assembly Bill No. 77 replaced references
2 to the cutting, eradication, removal or destruction of weeds with the term “control.”
3 (Chapter 526, Statutes of Nevada 2015, at page 3588) **Section 1.5** of this bill
4 defines “control” to mean the cutting, destruction or eradication of established
5 noxious weed populations to prevent: (1) the spread, maturation and dispersal of
6 any propagative part of the noxious weed; and (2) the reproduction and spread of
7 such noxious weeds.



Existing law authorizes the Director of the State Department of Agriculture to, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds to: (1) support the control and prevention of the spread of noxious weeds in this State; and (2) allow businesses in this State to market such agricultural products as being in compliance with any applicable federal law or regulation or any other requirement specified by the Director. (NRS 555.010) **Sections 1.5 and 2** of this bill expand the program by authorizing the Director to adopt such regulations to certify agricultural products as being free from any propagative parts from which a noxious weed may grow. **Section 2** additionally expands the purposes of the program to include allowing businesses in this State to market agricultural products as being in compliance with the guidelines set forth by the North American Invasive Species Management Association, in addition to applicable federal law or regulation or any other requirement specified by the Director.

Existing law authorizes the Department to provide a written notice of its finding that an area is infested with certain pests, noxious weeds or plant diseases to the owner or occupant of the area. (NRS 555.100) Existing law also authorizes the State Quarantine Officer to serve notice on the owner or occupant of land where noxious weeds are found. (NRS 555.160) **Sections 3 and 4** of this bill authorize such notices to be served by electronic mail.

Existing law requires a person who is a dealer of nursery stock to obtain a license from the Director to engage in such business. Existing law exempts a business that is licensed by another state that sells nursery stock only to the public exclusively by catalog from the licensing requirement. (NRS 555.236) **Section 5** of this bill expands this exemption to a business that is licensed by another state that sells nursery stock only to the public exclusively via the Internet.

Existing law prohibits a natural person from engaging in pest control or serving as an agent, operator, pilot, primary principal, location principal or principal for pest control within this State at any time without a license as an applicator issued by the Director. (NRS 555.280) **Section 15** of this bill applies this prohibition only to such activities engaged in for hire or for profit without a license. **Section 15** additionally prohibits a natural person or business entity from operating as a pest control business for hire or for profit within this State at any time without a business license issued by the Director.

Section 25 of this bill eliminates provisions of existing law providing for the certification of a governmental agency to engage in pest control and the licensure of an employee of such an agency to engage in pest control in the course and scope of his or her employment. (NRS 555.2642, 555.2643, 555.2688, 555.2771-555.2775) **Sections 6-8, 14 and 16-19** of this bill instead provide for the certification of employees of a government agency who engage in pest control as non-private applicators in the same manner as other applicators of pesticides are certified.

Sections 1, 9, 11, 13, 20, 22 and 23 of this bill replace references to "certified applicators," who are authorized to apply or supervise the application of restricted-use pesticides, with references to "authorized commercial applicators," "certified non-private applicators," and "private applicators," which are the categories of persons authorized to apply or supervise the application of such pesticides. **Section 5.5** of this bill makes a conforming change to indicate the proper placement of **section 1** of this bill in the Nevada Revised Statutes.

Section 12 of this bill provides that a restricted-use pesticide is a certain type of pesticide that has been classified for restricted use in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act.

Section 18 of this bill authorizes the Director to investigate any loss or damage resulting from the application of any pesticide by a commercial applicator or authorized commercial applicator.



Section 19 of this bill authorizes the Director to take disciplinary action against a person licensed to engage in pest control who fails to provide adequate instruction or supervision to an unlicensed applicator working under the licensee's supervision.

Section 20 of this bill provides that a person licensed as a commercial applicator and authorized to engage in pest control is authorized to use or supervise the use of restricted-use pesticides without obtaining a certificate if the licensee complies with certain requirements.

Section 21 of this bill requires an applicant for a certificate to use a restricted-use pesticide to demonstrate that he or she satisfies the standards set forth in applicable federal regulations if the applicant is applying to be certified as a non-private applicator or private applicator.

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:

"Authorized commercial applicator" means an applicator who for hire or for profit is licensed to apply or supervise the application of any general-use pesticide and who is authorized to apply or supervise the application of any restricted-use pesticide pursuant to NRS 555.351.

Sec. 1.5. NRS 555.005 is hereby amended to read as follows:
555.005 As used in this chapter, unless the context requires otherwise:

1. ***"Control" means to cut, destroy or eradicate established noxious weed populations in order to prevent:***

(a) The spread, maturation and dispersal of any propagative part of the noxious weed; and

(b) The reproduction and spread of the noxious weed.

2. "Department" means the State Department of Agriculture.

~~[2.]~~ 3. "Director" means the Director of the Department.

~~[3.]~~ 4. "Noxious weed" means any species of plant which is, or is likely to be, a public nuisance, detrimental or destructive and difficult to control.

~~[4.]~~ 5. "Pest" means any form of animal or vegetable life detrimental to the crops, horticulture, livestock, public health, wildlife, quality of water and beneficial uses of land in this State, including, without limitation, any insect, snail, nematode, fungus, virus, bacterium, microorganism, mycoplasma, weed, parasitic plant or any other plant that is normally considered to be a pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the Director declares to be a pest.

~~[5.]~~ 6. ***"Propagative part" means any seed, cutting or other plant part from which a noxious weed can grow.***



7. "Vertebrate pest" means any animal of the subphylum Vertebrata, except predatory animals, which is normally considered to be a pest, including a gopher, ground squirrel, rat, mouse, starling, blackbird and any other animal which the Director may declare to be a pest.

Sec. 2. NRS 555.010 is hereby amended to read as follows:

555.010 Within the limits of any appropriation made by law:

1. The Director may:

(a) Investigate the prevalence of; and

(b) Take the necessary action to control,

↪ vertebrate and invertebrate pests of plants and animals, plant diseases, physiological plant disorders and noxious weeds for the protection of the crops, livestock, public health, wildlife, water quality and beneficial uses of land in the State of Nevada.

2. The Director may, by regulation, establish and administer a program to certify agricultural products as being free from noxious weeds *and any propagative parts* to support the control and prevention of the spread of noxious weeds in this State and to allow businesses in this State to market those products in compliance with *the guidelines set forth by the North American Invasive Species Management Association*, any applicable federal law or regulation or any other requirement specified by the Director.

Sec. 3. NRS 555.100 is hereby amended to read as follows:

555.100 1. The Department shall, if necessary or if a complaint is made to the Department, cause an inspection to be conducted of any premises, land, means of conveyance or article of any person in this State if it is found to be infested with any pest, noxious weed or plant disease that is injurious to:

(a) The public health or quality of any water in this State; or

(b) Any wildlife, beneficial use of land or agriculture in this State.

2. The Department may provide a written notice of its findings to the owner or occupant of the premises, land, means of conveyance or article and require the owner or occupant to control the pest, noxious weed or plant disease in the manner and within the period specified in the notice.

3. A notice issued pursuant to the provisions of subsection 2:

(a) May be served upon the owner or occupant by an officer or employee of the Department; and


(b) Must be served in writing, by certified mail , *by electronic mail* or personally, with receipt given therefor.

Sec. 4. NRS 555.160 is hereby amended to read as follows:

555.160 1. The State Quarantine Officer shall make or cause to be made a careful examination and investigation of the spread, development and growth of noxious weeds in this State. Upon the



discovery of those weeds, the State Quarantine Officer shall ascertain the name of the owner or occupant of the land and the description of the land where the weeds are found. The State Quarantine Officer may serve notice in writing upon the owner or occupant of the land to control the weeds within such time and in such manner as designated and described in the notice. One such notice shall be deemed sufficient for the entire season of weed growth during that year.

2. Notices may be served upon the owner or occupant by an officer or employee of the Department, and must be served in writing, personally or by certified mail  or *electronic mail*, with receipt given therefor.

Sec. 5. NRS 555.236 is hereby amended to read as follows:

555.236 1. Except as otherwise provided in this section, a person who engages in the commercial production, holding, distribution, collection or selling of nursery stock must obtain a license from the Director, except:

(a) Retail florists or other persons who sell potted, ornamental plants intended for indoor decorative purposes.


(b) A person not engaged in the nursery or landscaping business who raises nursery stock as a hobby in this State from which the person makes occasional sales, if the person does not advertise or solicit for the sale of that nursery stock.

(c) Persons engaged in agriculture and field-growing vegetable plants intended for sale for use in agricultural production.

(d) At the discretion of the Director, persons selling vegetable bulbs or flower bulbs, including, without limitation, onion sets, tulip bulbs and similar bulbs.

(e) A business licensed by another state that sells nursery stock only to:

(1) A licensed dealer of nursery stock in this State; or

(2) The public exclusively by catalog  or *via the Internet*.

(f) A garden club or charitable nonprofit association conducting sales of nursery stock, provided that the garden club or nonprofit association has applied for and received a permit from the Director to conduct such sales. The Department shall not charge a fee for such a permit.

(g) A state or local governmental entity, including a conservation district. The Department may inspect any plant materials held, distributed, collected or sold by such an entity.

2. The Director may waive the requirements relating to licensing set forth in NRS 555.235 to 555.249, inclusive, for a person otherwise required to obtain a license pursuant to this section if the person only has occasional sales of nursery stock to the



ultimate customer. To obtain a waiver pursuant to this subsection, the person must:

(a) Submit to the Department a completed application for a license to engage in the business of a dealer of nursery stock that includes sufficient information to demonstrate that the person qualifies for a waiver pursuant to this subsection; and

(b) Submit to the Director a notarized affidavit on a form provided by the Department attesting that all information furnished in the completed application is true.

➤ A completed application submitted to the Department pursuant to this section need not be accompanied by the fee required by NRS 555.238. A waiver issued pursuant to this subsection may be revoked at any time and must be renewed annually.

3. Persons, state agencies or political subdivisions exempt from the licensing requirements:

(a) Shall conduct their businesses in accordance with pest regulations and grades and standards for nursery stock as established by the Director.

(b) Shall register annually, on or before July 1, with the Department, the location, size and type of nursery stock being sold or produced.

4. As used in this section, "occasional sales" means sales of nursery stock in a gross annual amount that is less than \$1,000.

Sec. 5.5. 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, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 555.26155 is hereby amended to read as follows:

555.26155 "Applicator" means a natural person, *including, without limitation, a natural person who is employed by a city, county, state or other governmental agency*, who ~~engages in pest control. The term does not include a government applicator.~~ *applies or supervises the application of any pesticide.*

Sec. 7. NRS 555.2617 is hereby amended to read as follows:

555.2617 "Certificate" means a certificate of competency issued by the Director to a ~~commercial applicator~~ *non-private applicator* or private applicator authorizing the applicator to ~~make application of~~ *purchase, use* or ~~to~~ supervise the ~~application~~ *use* of a restricted-use pesticide.

Sec. 8. NRS 555.2618 is hereby amended to read as follows:

555.2618 ~~["Certified"]~~ *"Non-private"* applicator" means ~~any~~ :



1 *1. A natural person who is employed by a city, county, state*
2 *or other governmental agency, including, without limitation, a*
3 *conservation district or a weed control district, who:*

4 *(a) Is licensed to apply or supervise the application of any*
5 *general-use pesticide; or*

6 *(b) Is licensed to apply or supervise the application of any*
7 *general-use pesticide and is certified to apply or supervise the*
8 *application of any restricted-use pesticide; or*

9 *2. An applicator who is certified ~~[by the Director as qualified~~*
10 *~~to use or to supervise the use]~~ and who applies or supervises the*
11 *application of any restricted-use pesticide ~~[.]~~ and does not qualify*
12 *as a private applicator under NRS 555.2681.*

13 **Sec. 9.** NRS 555.2619 is hereby amended to read as follows:

14 555.2619 "Commercial applicator" means ~~[a-certified]~~ *an*
15 *applicator who ~~[applies or supervises]~~ is licensed to apply or*
16 *supervise the application of any ~~[restricted-use pesticide and does~~*
17 *~~not qualify as a private applicator under NRS 555.2681.] general-~~*
18 *use pesticide for hire or for profit.*

19 **Sec. 10.** NRS 555.2667 is hereby amended to read as follows:

20 555.2667 "Pest control" means ~~[conducting as a function of the~~
21 *agency, in the case of a city, county, state or other governmental*
22 *agency, or]* publicly holding oneself out as being in the business of
23 detecting, preventing, controlling or exterminating pests or
24 otherwise engaging in, advertising or soliciting for:

25 1. The use of pesticides or mechanical devices for the
26 extermination, control or prevention of infestations of pests.

27 2. The inspection of households or other structures and the
28 submission of reports of inspection, estimates or bids, written or
29 oral, for the inspection, extermination, control or prevention of
30 wood-destroying pests.

31 **Sec. 11.** NRS 555.2681 is hereby amended to read as follows:

32 555.2681 "Private applicator" means ~~[a-certified]~~ *an*
33 *who ~~[uses or supervises the use]~~ is certified to apply or supervise*
34 *the application of any restricted-use pesticide for purposes of*
35 *producing any agricultural commodity on property owned or rented*
36 *by the ~~[certified]~~ applicator or the ~~[certified]~~ applicator's employer*
37 *or on the property of the ~~[certified]~~ applicator's neighbors if applied*
38 *without compensation other than trading of personal services*
39 *between producers of agricultural commodities.*

40 **Sec. 12.** NRS 555.2683 is hereby amended to read as follows:

41 555.2683 "Restricted-use pesticide" means any pesticide,
42 including any highly toxic pesticide, which:

43 1. The Director has found and determined, after a hearing, to
44 be:



(a) Injurious to persons, pollinating insects, bees, animals, crops or land, other than pests or vegetation it is intended to prevent, destroy, control or mitigate; or

(b) Detrimental to:

(1) Vegetation, except weeds;

(2) Wildlife; or

(3) Public health and safety; or

2. Has been classified for restricted use ~~by or under the supervision of a certified applicator~~ in accordance with the Federal ~~Environmental Pesticide Control~~ *Insecticide, Fungicide, and Rodenticide* Act, 7 U.S.C. §§ 136 et seq.

Sec. 13. NRS 555.2687 is hereby amended to read as follows:

555.2687 "Supervision" of the application of a restricted-use pesticide by ~~a certified~~ *an authorized commercial applicator, certified non-private applicator or private* applicator must be defined by regulation of the Director.

Sec. 14. NRS 555.273 is hereby amended to read as follows:

555.273 All state agencies, municipal corporations and public utilities or any other governmental agency ~~and any government applicator is~~ *are* subject to the provisions of NRS 555.2605 to 555.460, inclusive, and rules adopted thereunder concerning the application of restricted-use pesticides by any person.

Sec. 15. NRS 555.280 is hereby amended to read as follows:

555.280 *1. A natural person, including, without limitation, any consultant, demonstrator, researcher or specialist, shall not engage, for hire or for profit, in pest control or serve as an agent, operator, pilot, primary principal, location principal or principal for that purpose within this State at any time without a license as an applicator issued by the Director.*

2. A natural person or business entity shall not operate, for hire or for profit, as a pest control business within this State at any time without a business license issued by the Director.

Sec. 16. NRS 555.305 is hereby amended to read as follows:

555.305 1. The Director shall develop and implement a process by which a person with a criminal history may petition the Director to review the criminal history of the person to determine if the person's criminal history will disqualify the person from obtaining ~~a license as a government applicator pursuant to NRS 555.2772 or~~ a business license or license as an applicator pursuant to NRS 555.290.

2. Not later than 90 days after a petition is submitted to the Director pursuant to subsection 1, the Director shall inform the person of the determination of the Director of whether the person's criminal history will disqualify the person from obtaining a license. The Director is not bound by his or her determination of



1 disqualification or qualification and may rescind such a
2 determination at any time.

3 3. The Director may provide instructions to a person who
4 receives a determination of disqualification to remedy the
5 determination of disqualification. A person may resubmit a petition
6 pursuant to subsection 1 not earlier than 6 months after receiving
7 instructions pursuant to this subsection if the person remedies the
8 determination of disqualification.

9 4. A person with a criminal history may petition the Director at
10 any time, including, without limitation, before obtaining any
11 education or paying any fee required to obtain a license from the
12 Director.

13 5. A person may submit a new petition to the Director not
14 earlier than 2 years after the final determination of the initial petition
15 submitted to the Director.

16 6. The Director may impose a fee of up to \$50 upon the person
17 to fund the administrative costs in complying with the provisions of
18 this section. The Director may waive such fees or allow such fees to
19 be covered by funds from a scholarship or grant.

20 7. The Director may post on the Internet website of the
21 Department:

22 (a) The requirements to obtain a license from the Director; and

23 (b) A list of crimes, if any, that would disqualify a person from
24 obtaining a license from the Director.

25 8. The Director may request the criminal history record of a
26 person who petitions the Director for a determination pursuant to
27 subsection 1. To the extent consistent with federal law, if the
28 Director makes such a request of a person, the Director shall require
29 the person to submit his or her criminal history record which
30 includes a report from:

31 (a) The Central Repository for Nevada Records of Criminal
32 History; and

33 (b) The Federal Bureau of Investigation.

34 9. A person who petitions the Director for a determination
35 pursuant to subsection 1 shall not submit false or misleading
36 information to the Director.

37 10. The Director of the State Department of Agriculture shall,
38 on or before the 20th day of January, April, July and October,
39 submit to the Director of the Legislative Counsel Bureau in an
40 electronic format prescribed by the Director, a report that includes:

41 (a) The number of petitions submitted to the Director of the
42 State Department of Agriculture pursuant to subsection 1;

43 (b) The number of determinations of disqualification made by
44 the Director of the State Department of Agriculture pursuant to
45 subsection 1;



(c) The reasons for such determinations; and

(d) Any other information that is requested by the Director of the Legislative Counsel Bureau or which the Director of the State Department of Agriculture determines would be helpful.

11. The Director of the Legislative Counsel Bureau shall transmit a compilation of the information received pursuant to subsection 10 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

Sec. 17. NRS 555.310 is hereby amended to read as follows:

555.310 1. The Director shall collect from each person applying for examination or reexamination a testing fee established by regulation of the Director.

2. The Director shall, before the license or certificate is issued, collect from each person applying for a business license ~~for governmental agency certificate~~ or license as an applicator ~~for government applicator~~ a fee established by regulation of the Director. Any person employing primary principals, location principals, principals, operators or agents shall pay to the Director a fee established by regulation of the Director for each primary principal, location principal, principal, operator or agent licensed.

Sec. 18. NRS 555.330 is hereby amended to read as follows:

555.330 1. The Director shall require from each applicant for a business license proof of public liability and property damage insurance in an amount of:

(a) Except as otherwise provided in paragraph (b), not less than \$50,000.

(b) If the business license would authorize the application of pesticides by aircraft:

(1) Not less than \$100,000 for bodily injury to or death of one person in any one accident;

(2) Subject to the limit for one person, not less than \$300,000 for bodily injury to or death of two or more persons in any one accident; and

(3) Not less than \$100,000 for each occurrence of damage to property in any one accident.

➤ The Director may accept a liability insurance policy or surety bond in the proper amount.

2. The Director may require drift insurance for the use of pesticides or other materials declared hazardous or dangerous to humans, livestock, wildlife, crops or plantlife.

3. Any person injured by the breach of any such obligation is entitled to sue in his or her own name in any court of competent jurisdiction to recover the damages the person sustained by that breach, if each claim is made within 6 months after the alleged injury.



4. The Director on his or her own motion may, or upon receipt of a verified complaint of an interested person shall, investigate, as he or she deems necessary, any loss or damage resulting from the application of any pesticide by a licensed applicator, ~~licensed government~~ *commercial applicator, authorized commercial* applicator, licensed pest control operator, primary principal, location principal or principal. A verified complaint of loss or damage must be filed within 60 days after the time that the occurrence of the loss or damage becomes known except that, if a growing crop is alleged to have been damaged, the verified complaint must be filed before 50 percent of the crop has been harvested. A report of investigations resulting from a verified complaint must be furnished to the person who filed the complaint.

Sec. 19. 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 business license or license issued to an applicator ~~for government applicator~~ under NRS 555.2605 to 555.460, inclusive, if the Director 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 has operated faulty or unsafe equipment;
- (f) The licensee has made any application of materials in a manner inconsistent with labeling or any restriction imposed by regulation of the Director, or otherwise in a faulty, careless or negligent manner;
- (g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, or regulations adopted pursuant thereto;
- (h) The licensee has engaged in the business of pest control without having a licensed agent, operator, primary principal or principal in direct on-the-job supervision;
- (i) The licensee has aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed the license to be used by an unlicensed person;
- (j) The licensee was intentionally guilty of fraud or deception in the procurement of the license;



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

(l) The licensee has been convicted of, or entered a plea of nolo contendere to, a category A or B felony or a category C, D or E felony if the conviction occurred or the plea was entered for the category C, D or E felony during the immediately preceding 10 years in any court of competent jurisdiction in the United States or any other country; or

(m) The licensee has failed to provide adequate instruction or supervision to any unlicensed ~~employee~~ *applicator* working under the supervision of the licensee.

2. A business license and any license issued to a principal of the business as an applicator is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to NRS 555.330 is cancelled, and the licenses remain suspended until the insurance is re-established.

3. If the licensee is a natural person, any licensee against whom the Director initiates disciplinary action pursuant to this section shall, within 30 days after receiving written notice of the disciplinary action from the Director and in accordance with any regulations adopted by the Department, submit to the Director any document or other information required by the Department to perform a background check of the licensee. Any document or other information submitted pursuant to this subsection must be accompanied by the appropriate fees, if any, specified in regulations adopted by the Department for performing the background check. A willful failure of a licensee to comply with the requirements of this subsection constitutes an additional ground for the revocation, suspension or modification of the license pursuant to this section.

Sec. 20. NRS 555.351 is hereby amended to read as follows:

555.351 *1.* Except as otherwise provided in ~~NRS 555.2775:~~
~~—1.—A)~~ *subsection 3, a* person shall not use any restricted-use pesticide within this State at any time without a certificate issued by the Director except a person using any restricted-use pesticide under the supervision of ~~a—certified~~ *an authorized commercial applicator who complies with the provisions of subsection 3, certified non-private applicator or private* applicator.

2. If the Director has adopted regulations requiring:

(a) A permit pursuant to NRS 586.403; or

(b) A special use permit pursuant to NRS 586.405,

↪ for a restricted-use pesticide, a person shall not use that pesticide without obtaining the required permit.



3. A person licensed as a commercial applicator and authorized to engage in pest control is authorized to use or supervise the use of a restricted-use pesticide without obtaining a certificate issued by the Director pursuant to NRS 555.357, if the person:

(a) Demonstrates that he or she satisfies the standards set forth in 40 C.F.R. § 171.103; and

(b) Otherwise complies with the provisions of this chapter and any regulations adopted pursuant to this chapter governing the use of restricted-use pesticides.

Sec. 21. NRS 555.355 is hereby amended to read as follows:

555.355 1. The Director may require the applicant to show, upon examination, that the applicant possesses adequate knowledge concerning the proper use and application of restricted-use pesticides and the dangers involved and precautions to be taken in connection with the application of those pesticides. ~~It, including, but not limited to, the following areas:~~

~~—(a) Label and labeling comprehension.~~

~~—(b) Environmental consequences of pesticide use and misuse.~~

~~—(c) Pests.~~

~~—(d) Pesticides.~~

~~—(e) Equipment.~~

~~—(f) Application techniques.~~

~~—(g) Laws and regulations.~~

~~—(h) Safety.~~

2. In addition, the Director may require the applicant to meet special qualifications of competency to meet the special needs of a given locality regarding the use or application of a specific restricted-use pesticide.

3. *The Director shall require an applicant to demonstrate:*

(a) *If the applicant is applying to be certified as a non-private applicator, that he or she satisfies the standards set forth in 40 C.F.R. § 171.103.*

(b) *If the applicant is applying to be certified as a private applicator, that he or she satisfies the standards set forth in 40 C.F.R. § 171.105.*

4. The Director shall collect from each person applying for an examination or reexamination, in connection with the issuance of a certificate, a testing fee established by regulation of the State Board of Agriculture for any one examination period.

Sec. 22. NRS 555.359 is hereby amended to read as follows:

555.359 The Director may deny or suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may deny, revoke, suspend or modify any certificate issued under the provisions of NRS 555.351 to 555.357, inclusive, if the Director



finds that the applicant or the ~~certified~~ *authorized commercial applicator, certified non-private applicator or private* applicator:

1. Is no longer qualified;
2. Has applied known ineffective or improper materials;
3. Has applied materials inconsistent with labeling or other restrictions imposed by the Director;
4. Has operated faulty or unsafe equipment;
5. Has made any application in a faulty, careless or negligent manner;
6. Aided or abetted an uncertified person to evade the provisions of NRS 555.351 to 555.357, inclusive, combined or conspired with an uncertified person to evade those provisions, or allowed one's certificate to be used by an uncertified person;
7. Was guilty of fraud or deception in the procurement of the certificate;
8. Has deliberately falsified any record or report;
9. Has violated any of the provisions of NRS 555.351 to 555.357, inclusive, 555.390 or any regulation adopted pursuant thereto; or
10. Has failed or neglected to give adequate instruction or direction to an uncertified person working under his or her supervision.

Sec. 23. NRS 555.390 is hereby amended to read as follows:

555.390 1. The Director may, by regulation, require any licensee *or non-private applicator* to maintain such records and furnish reports giving such information with respect to particular applications of pesticides and such other relevant information as the Director may deem necessary.

2. The Director may, by regulation, require any ~~certified~~ *authorized commercial applicator, certified non-private applicator or private* applicator to maintain such records and furnish reports giving such information with respect to application of restricted-use pesticides and such other relevant information as the Director may deem necessary.

Sec. 24. A person who, on the effective date of this act, is the holder of a valid license as a government applicator issued pursuant to NRS 555.2775, as that section existed before the effective date of this act, who is otherwise qualified to hold such a license on that date and who uses restricted-use pesticide in compliance with NRS 555.2775, as that section existed before the effective date of this act, shall be deemed to hold a certificate to use restricted-use pesticides issued pursuant to NRS 555.357 until his or her license as a government applicator expires or is revoked, whichever occurs first.

Sec. 25. NRS 555.2642, 555.2643, 555.2688, 555.2771, 555.2772, 555.2773, 555.2774 and 555.2775 are hereby repealed.



1 **Sec. 26.** This act becomes effective upon passage and
2 approval.

LEADLINES OF REPEALED SECTIONS

555.2642 “Government applicator” defined.

555.2643 “Governmental agency certificate” defined.

555.2688 “Unlicensed employee” defined.

555.2771 Governmental agency certificate.

555.2772 License as government applicator.

555.2773 Application for governmental agency certificate
or license as government applicator.

555.2774 Examination and qualifications of applicant for
license as government applicator; testing fee established by
regulation.

555.2775 Issuance and renewal of license as government
applicator; fee; written explanation of denial.

