

SENATE BILL NO. 129—SENATOR HAMMOND

FEBRUARY 17, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to pesticide applicators.
(BDR 49-589)

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; creating a limited license for certain applicators of pesticides or to use restricted-use pesticides without first passing the applicable examination; requiring certain service containers to be labeled; providing that certain application devices are not required to bear certain labels; revising provisions relating to the imposition of a fine for the violation of a provision governing the custom application of pesticides; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an applicant for a license as a government applicator of pesticides to show, upon examination, that he or she possesses certain qualifications. (NRS 555.2774) Existing law authorizes the Director of the State Department of Agriculture to require an applicant for a license as an applicator, if the applicant would be a primary principal or principal of a pest control business, to show, upon examination, that he or she possesses certain qualifications. (NRS 555.300) Existing law also authorizes the Director to require an applicant for a certificate to use restricted-use pesticides to show, upon examination, that he or she possesses certain qualifications. (NRS 555.355) **Section 2** of this bill requires the Director to issue a limited license to such applicants without the applicant taking an examination if the applicant: (1) has applied for a license or certificate; (2) is otherwise qualified for such a license or certificate; (3) pays the applicable application fee; (4) has entered into a contract to work as an employee of a licensed government applicator, licensed applicator, licensed business or certified applicator; and (5) will attempt during the term of the limited license to pass the applicable examination. **Section 2** prohibits the Director from issuing a limited license to a person: (1) who has been issued an applicable license or certificate and is involved in a disciplinary action concerning his or her license or certificate, or the license or certificate has been revoked or suspended; or (2) who has been



refused a license or certificate in this State, another state or territory of the United States or the District of Columbia. **Section 2** further authorizes a person who has been issued a limited license to practice as a government applicator or a primary principal or principal of a pest control business or to use restricted-use pesticides, as applicable, under the supervision of a licensed government applicator, licensed applicator, licensed business or certified applicator, as applicable, if the supervising entity has consented to be liable for the actions of the person holding the limited license. **Section 2** provides that a limited license expires 90 days after its date of issuance and authorizes a one-time renewal of the limited license for 30 additional days, during which the license holder can seek to pass the applicable examination. **Section 2** requires the person who holds a limited license to notify the Director of his or her termination from employment within 7 days after such termination and surrender the limited license to the Director. Finally, **section 2** authorizes the Director to revoke a limited license if the Director finds, by a preponderance of the evidence, that the holder of the limited license: (1) failed to attempt to pass the applicable examination during the 90-day period of the limited license; or (2) violated any provision governing the custom application of pesticides. **Sections 8-10 and 13** of this bill make conforming changes by providing exceptions to certain licensure requirements for the custom application of pesticides.

Existing regulations require all service containers of a licensee working in the field of urban and structural pest control to bear abbreviated labels that comply with certain standards. (NAC 555.445) **Section 3** of this bill requires such service containers to be labeled according to the standards adopted by the Director by regulation.

Existing regulations require an application device used by a licensee working in the field of urban and structural pest control for storing or transporting diluted pesticide to bear a label identifying the pesticide. (NAC 555.445) **Section 3** provides that such an application device is not required to be labeled and is not required to bear a label identifying the pesticide. **Sections 4-7, 11 and 12** of this bill make conforming changes relating to the placement of **sections 2 and 3** within the Nevada Revised Statutes.

Existing law provides that any person who violates the provisions governing the custom application of pesticides is guilty of a misdemeanor and, in addition to any criminal penalty, is required to pay to the State Department of Agriculture an administrative fine of not more than \$5,000 per violation. (NRS 555.460) Existing law requires the Director to adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of the provisions governing the custom application of pesticides, the maximum fine not exceeding \$5,000 per day. (NRS 555.460, 555.470) **Section 14** of this bill provides that if an applicator, certified applicator, primary principal, principal or unlicensed employee, as applicable, is employed by or contracted with a licensed business and the person commits a violation of the provisions governing the custom application of pesticides, the Director is required to impose, upon notice and a hearing, the fine on the person directly and not impose such a fine on the licensed business which employed the person.



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

1 **Section 1.** Chapter 555 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *The Director shall, without an examination as*
4 *required or authorized pursuant to NRS 555.2774, 555.300 or*
5 *555.355, as applicable, issue a limited license to practice as a*
6 *government applicator or primary principal or principal of a pest*
7 *control business or to use restricted-use pesticides, as applicable,*
8 *to a person who:*

9 *(a) Has applied pursuant to NRS 555.2773, 555.290 or*
10 *555.353;*

11 *(b) Except for completing any examination, is qualified for a*
12 *license to practice as a government applicator or as a primary*
13 *principal or principal of a pest control business or for a certificate*
14 *to use restricted-use pesticides, as applicable;*

15 *(c) Pays any applicable application fees;*

16 *(d) Has entered into a contract to work as an employee of a*
17 *licensed government applicator, licensed applicator, licensed*
18 *business or certified applicator, as applicable; and*

19 *(e) Confirms that he or she will attempt, during the term of the*
20 *limited license, to pass the applicable examination described in*
21 *this subsection.*

22 **2.** *The Director shall not issue a limited license to a person*
23 *who:*

24 *(a) Has been issued a license to practice as a government*
25 *applicator or licensed applicator or has been certified to use*
26 *restricted-use pesticides, as applicable, if:*

27 *(1) The person is involved in a disciplinary action*
28 *concerning the license or certificate; or*

29 *(2) The license or certificate of the person has been revoked*
30 *or suspended; or*

31 *(b) Has been refused a license to practice as a government*
32 *applicator or licensed applicator or a certificate to use restricted-*
33 *use pesticides, as applicable,*

34 *↪ in this State, another state or territory of the United States or*
35 *the District of Columbia.*

36 **3.** *A person to whom a limited license is issued pursuant to*
37 *subsection 1 may practice as a government applicator or primary*
38 *principal or principal of a pest control business or use restricted-*
39 *use pesticides, as applicable, under the supervision of a licensed*
40 *government applicator, licensed applicator, licensed business or*
41 *certified applicator, as applicable, if the licensed government*
42 *applicator, licensed applicator, licensed business or certified*



1 *applicant, as applicable, consents to be liable for the actions of*
2 *the person holding the limited license.*

3 *4. A limited license expires 90 days after its date of issuance*
4 *and may be renewed once, on or before the date of its expiration,*
5 *unless the holder no longer satisfies the requirements for the*
6 *limited license. The holder of the limited license may, after the*
7 *completion of a review conducted at the discretion of the Director,*
8 *be granted a renewal certificate that authorizes the continuation*
9 *of the practice pursuant to the limited license for not more than 30*
10 *additional days.*

11 *5. Within 7 days after the termination of the contract*
12 *required by paragraph (d) of subsection 1, the holder of a limited*
13 *license shall notify the Director of such termination in writing and*
14 *surrender the limited license issued pursuant to this section to the*
15 *Director.*

16 *6. The Director may revoke a limited license issued pursuant*
17 *to this section at any time if the Director finds, by a preponderance*
18 *of the evidence, that the holder of the limited license:*

19 *(a) Failed to attempt during the term of the limited license to*
20 *pass the applicable examination, as described in subsection 1; or*

21 *(b) Violated any provision of NRS 555.2605 to 555.470,*
22 *inclusive, or the regulations adopted by the Director pursuant to*
23 *NRS 555.2605 to 555.470, inclusive.*

24 *7. The Director may adopt regulations to carry out the*
25 *provisions of this section.*

26 **Sec. 3. 1.** *All service containers of a licensee working in the*
27 *field of urban and structural pest control must be labeled*
28 *according to the standards adopted by the Director by regulation.*

29 *2. An application device used by a licensee working in the*
30 *field of urban and structural pest control for storing or*
31 *transporting diluted pesticide is not required to be labeled and is*
32 *not required to bear a label identifying the pesticide.*

33 *3. As used in this section:*

34 *(a) "Application device" means a device that is used by an*
35 *applicant to directly treat the household or other structure*
36 *requiring pest control services.*

37 *(b) "Licensee" means a person who is licensed as an*
38 *applicant pursuant to NRS 555.2605 to 555.470, inclusive.*

39 *(c) "Service container" means any container that is not an*
40 *application device and that:*

41 *(1) Is not the original container for a pesticide; and*

42 *(2) Is used to store or transport any concentrated or diluted*
43 *pesticide registered in this State.*



1 **Sec. 4.** NRS 555.2605 is hereby amended to read as follows:
2 555.2605 As used in NRS 555.2605 to 555.460, inclusive, *and*
3 *sections 2 and 3 of this act*, unless the context otherwise requires,
4 the words and terms defined in NRS 555.261 to 555.2695, inclusive,
5 have the meanings ascribed to them in those sections.

6 **Sec. 5.** NRS 555.270 is hereby amended to read as follows:
7 555.270 It is the policy of this State and the purpose of NRS
8 555.2605 to 555.460, inclusive, *and sections 2 and 3 of this act* to
9 regulate, in the public interest, the application of pesticides which,
10 although valuable for the control of pests, may seriously injure
11 humans, animals and crops over wide areas if not properly applied.

12 **Sec. 6.** NRS 555.273 is hereby amended to read as follows:
13 555.273 All state agencies, municipal corporations and public
14 utilities or any other governmental agency and any government
15 applicator is subject to the provisions of NRS 555.2605 to 555.460,
16 inclusive, *and sections 2 and 3 of this act* and rules adopted
17 thereunder concerning the application of restricted-use pesticides by
18 any person.

19 **Sec. 7.** NRS 555.277 is hereby amended to read as follows:
20 555.277 1. The provisions of NRS 555.2605 to 555.460,
21 inclusive, *and sections 2 and 3 of this act* relating to licenses and
22 requirements for their issuance, except those provisions relating to a
23 certificate or permit to use a restricted-use pesticide, do not apply to
24 any farmer-owner of ground equipment applying pesticides for
25 himself, herself or his or her neighbors, if:

26 (a) The farmer-owner operates farm property and operates and
27 maintains equipment for applying pesticides primarily for his or her
28 own use;

29 (b) The farmer-owner is not regularly engaged in the business of
30 applying pesticides or performing pest control as an operator,
31 primary principal or principal or as a regular occupation, and the
32 farmer-owner does not advertise or solicit pest control or publicly
33 hold himself or herself out as being in the business of pest control or
34 as an applicator; and

35 (c) The farmer-owner operates his or her equipment for applying
36 pesticides only in the vicinity of the farmer-owner's own property
37 and for the accommodation of the farmer-owner's neighbors for
38 agricultural purposes only.

39 2. The provisions of NRS 555.2605 to 555.460, inclusive, *and*
40 *sections 2 and 3 of this act* except those provisions relating to a
41 certificate or permit to use a restricted-use pesticide, do not apply to
42 a gardener using hand-powered equipment, devices or contrivances
43 to apply any pesticides of toxicity class III or IV, as classified by the
44 United States Environmental Protection Agency, to any lawn or
45 garden as an incidental part of his or her business of taking care of a



lawn or garden for remuneration, if he or she does not advertise or solicit pest control or publicly hold himself or herself out as being in the business of pest control or applying pesticides. As used in this subsection, “gardener” means a person who owns, operates or is employed by a business that provides routine care of a lawn or garden for a homeowner.

Sec. 8. NRS 555.2772 is hereby amended to read as follows:

555.2772 1. ~~[A]~~ *Except as otherwise provided in section 2 of this act, a* government applicator shall not engage in pest control within the course and scope of his or her employment without a license issued by the Director. The provisions of this subsection do not prohibit the use of a general-use pesticide by an unlicensed employee under the supervision of a government applicator.

2. As used in this section, “supervision” means:

(a) The exercise of responsibility and provision of guidance for an unlicensed employee by a government applicator; and

(b) The physical presence of the government applicator at the location where the unlicensed employee applies the general-use pesticide, if required by the label placed on the container for the general-use pesticide.

Sec. 9. NRS 555.280 is hereby amended to read as follows:

555.280 ~~[A]~~ *Except as otherwise provided in section 2 of this act, a* natural person, including, without limitation, any consultant, demonstrator, researcher or specialist, shall not engage 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.

Sec. 10. NRS 555.285 is hereby amended to read as follows:

555.285 ~~[A]~~ *Except as otherwise provided in section 2 of this act, a* natural person shall not 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 as an applicator 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. 11. 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 or government applicator under NRS 555.2605 to 555.460, inclusive, *and sections 2 and 3 of this act* 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, *and sections 2 and 3 of this act* 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, *and sections 2 and 3 of this act*, 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 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. 12. NRS 555.3505 is hereby amended to read as follows:

555.3505 1. If the Director receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is the holder of a license issued pursuant to NRS 555.2605 to 555.460, inclusive, *and sections 2 and 3 of this act* the Director shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Director receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Director shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Director receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 13. NRS 555.351 is hereby amended to read as follows:

555.351 Except as otherwise provided in NRS 555.2775  *and section 2 of this act:*

1. A person shall not use any restricted-use pesticide within this State at any time without a certificate issued by the Director



1 except a person using any restricted-use pesticide under the
2 supervision of a certified applicator.

3 2. If the Director has adopted regulations requiring:

4 (a) A permit pursuant to NRS 586.403; or

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

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

8 **Sec. 14.** NRS 555.470 is hereby amended to read as follows:

9 555.470 1. The Director shall adopt regulations specifying a
10 schedule of fines which may be imposed, upon notice and a hearing,
11 for each violation of the provisions of NRS 555.2605 to 555.460,
12 inclusive **H**, and sections 2 and 3 of this act. The maximum fine
13 that may be imposed by the Director for each violation must not
14 exceed \$5,000 per day. All fines collected by the Director pursuant
15 to this subsection must be remitted to the county treasurer of the
16 county in which the violation occurred for credit to the county
17 school district fund.

18 2. The Director may:

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

22 (b) Request the district attorney of the appropriate county to
23 investigate or file a criminal complaint against any person that the
24 State Board of Agriculture suspects may have violated any provision
25 of NRS 555.2605 to 555.460, inclusive **H**, and sections 2 and 3 of
26 this act.

27 **3. If an applicator, certified applicator, primary principal,**
28 **principal or unlicensed employee, as applicable, is employed by or**
29 **contracted with a business which has been issued a business**
30 **license and the applicator, certified applicator, primary principal,**
31 **principal or unlicensed employee, as applicable, commits a**
32 **violation of the provisions of NRS 555.2605 to 555.460, inclusive,**
33 **and sections 2 and 3 of this act, the Director shall impose, upon**
34 **notice and a hearing, the fine set forth in subsection 1 on the**
35 **applicator, certified applicator, primary principal, principal or**
36 **unlicensed employee, as applicable, directly and shall not impose**
37 **the fine on the business which employed or contracted with the**
38 **offending applicator, certified applicator, primary principal,**
39 **principal or unlicensed employee.**

40 **Sec. 15.** 1. This section becomes effective upon passage and
41 approval.

42 2. Sections 1 to 14, inclusive, of this act become effective:



- 1 (a) Upon passage and approval for the purpose of adopting any
2 regulations and performing any other preparatory administrative
3 tasks that are necessary to carry out the provisions of this act; and
4 (b) On October 1, 2021, for all other purposes.

