

A Bill for an Act Relating to Pest Control Operators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 460J-1, Hawaii Revised Statutes, is amended to read as follows:

“**§460J-1 Definitions.** As used in this chapter:

“Board” means the pest control board.

“Director” means the director of commerce and consumer affairs.

“Efficacy and safety data” means data from experiments conducted by qualified scientists to determine the efficacy and safety of a nonchemical pest control device.

“Fumigation” means the use of any substance or substances that emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the board, may be lethal, poisonous, noxious, or dangerous to human life.

“Fumigator” means any person licensed by the board as a pest control operator who shall have been qualified by the board in the branch of pest control which includes fumigation.

“Household pests” means those pests other than wood-destroying [pests] insects and microbes which invade households and other structures, including, but not limited to, rodents, vermin, and insects.

“Nonchemical pest control device” means any device that purports to eliminate or control pests by attracting, repelling, or killing pests without the use of chemicals. [Such a] The device shall include, but not be limited to, electromagnetic waves, sound and ultrasound, cosmic, and other waves.

“Pest control” means, with respect to [household pests and] wood-destroying pests, or [such] other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or performing the following:

- (1) Identifying infestations [or infections];
- (2) Making an inspection for the purpose of identifying or attempting to identify infestations [or infections] of household or other structures by [such] pests;
- (3) Making inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to [such] infestations [or infections]; and
- (4) Making contracts, or submitting bids for, or the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances, or mechanical devices, for the purpose of eliminating, exterminating, controlling, or preventing infestations [or infections] of [such] pests or organisms.

“Pest control operator” means any person who personally or through others offers to undertake or practice, or holds oneself out as being able to undertake or practice, or does undertake or practice pest control.”

SECTION 2. Section 460J-8, Hawaii Revised Statutes, is amended to read as follows:

“§460J-8 No license issued when. No license shall be issued to:

- (1) Any person unless the person has filed an application therefor;
- (2) Any person who does not possess a history of honesty, truthfulness, financial integrity, and fair dealing;
- [(2)] (3) Any partnership or joint venture unless one member of the partnership or joint venture who actively participates in the pest control business thereof holds an appropriate license;
- [(3)] (4) Any corporation unless the pest control business thereof is under the direct management of an officer who holds an appropriate license;
- [(4)] (5) Any individual unless the individual is of the age of eighteen years or more;
- [(5)] (6) Any person unless the person submits satisfactory proof to the board that the person has obtained workers' compensation insurance or has been authorized to act as a self-insurer as required by chapter 386.”

SECTION 3. Section 460J-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every applicant for a license under this chapter shall file an application on forms prescribed or required by the board, and shall furnish any additional information bearing upon the issuance of the license as the board requires[; provided that the board shall not require any applicant to furnish a statement of the applicant's financial condition]. Every application shall be sworn to before an officer authorized to administer oaths and shall be accompanied by the application and examination fees. In the case of a copartnership, joint venture, or corporation, any licensed member or officer therefor may sign the application and verify the same on behalf of the applicant and every application shall be accompanied by the application and license fees. In the case of a proprietorship, every application shall be accompanied by the application and license fees.”

SECTION 4. Section 460J-16, Hawaii Revised Statutes, is amended to read as follows:

“[[§460J-16]] Hearings. (a) In every case in which the board denies or refuses to grant or renew a license, the board shall give the person concerned notice and opportunity for hearing in conformity with chapter 91. Any person aggrieved by the denial or refusal by the board to grant or renew a license shall submit a request for a contested case hearing within sixty days of the date of the board's proposed denial or refusal. Appeal to the circuit court under section 91-14, or any other applicable statute, may only be taken from the board's final order, following a contested case hearing.

(b) In every case where it is proposed to [refuse to grant a license or to] revoke or suspend a license [or to refuse to renew a license], the board shall give the person concerned notice and hearing in conformity with chapter 91. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing. The hearing whenever possible shall be held on the island on which the aggrieved party resides.

(c) In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the board, or any member thereof, or of any subpoena issued by it, or [such] member, or the refusal of any witness to testify to any matter regarding which the witness may be

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questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.”

SECTION 5. Section 460J-29, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§460J-29]]~~ **Penal sanctions.** Any person who violates this chapter, or who conspires with another to violate this chapter, shall be fined not more than \$2,500[.] or imprisoned for not more than six months, or both.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 5, 1987.)