

By Senator Smith

14-458A-06

1 A bill to be entitled
2 An act relating to the Department of
3 Agriculture and Consumer Services; amending s.
4 482.021, F.S.; redefining the terms "employee"
5 and "independent contractor" for purposes of
6 ch. 482, F.S., the Structural Pest Control Act;
7 amending s. 482.051, F.S.; revising certain
8 requirements of the department for adopting
9 rules governing the use of pesticides for
10 preventing subterranean termites; amending s.
11 482.091, F.S.; clarifying provisions governing
12 employees who perform pest control for a
13 licensee under an identification card; amending
14 s. 482.211, F.S.; clarifying a provision
15 exempting certain mosquito control activities
16 from regulation under ch. 482, F.S., relating
17 to pest control; amending s. 500.033, F.S.;
18 renaming the Florida Food Safety and Food
19 Security Advisory Council as the "Florida Food
20 Safety and Food Defense Advisory Council";
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (7) and (12) of section
26 482.021, Florida Statutes, are amended to read:

27 482.021 Definitions.--For the purposes of this
28 chapter, and unless otherwise required by the context, the
29 term:

30 (7) "Employee" means a person who is employed by a
31 licensee that provides that person with necessary training,

1 supervision, pesticides, equipment, and insurance and who
2 receives compensation from and is under the personal
3 supervision and direct control of the licensee from whose
4 ~~which~~ compensation ~~of~~ the licensee regularly deducts and
5 matches federal insurance contributions and federal income and
6 Social Security taxes.

7 (12) "Independent contractor" means an entity separate
8 from the licensee that:

9 (a) Receives moneys from a customer which are
10 deposited in a bank account other than that of the licensee;

11 (b) Owns or supplies its own service vehicle,
12 equipment, and pesticides; ~~or~~

13 (c) Maintains a business operation, office, or support
14 staff independent of the licensee's direct control;

15 (d) Pays its own operating expenses such as fuel,
16 equipment, pesticides, and materials; or

17 (e)~~(e)~~ Pays its own worker's compensation as an
18 independent contractor.

19 Section 2. Subsection (5) of section 482.051, Florida
20 Statutes, is amended to read:

21 482.051 Rules.--The department has authority to adopt
22 rules pursuant to ss. 120.536(1) and 120.54 to implement the
23 provisions of this chapter. Prior to proposing the adoption
24 of a rule, the department shall counsel with members of the
25 pest control industry concerning the proposed rule. The
26 department shall adopt rules for the protection of the health,
27 safety, and welfare of pest control employees and the general
28 public which require:

29 (5) That pesticides ~~any pesticide~~ used as the primary
30 preventive treatment for preconstruction treatments for the
31 ~~prevention of~~ subterranean termites in new construction be

1 applied in the amount, concentration, and treatment area in
2 accordance with the label; that a copy of the label of the
3 registered pesticide being applied be carried in a vehicle at
4 the site where the pesticide is being applied; and that the
5 licensee maintain for 3 years the record of each
6 preconstruction treatment, indicating the date of treatment,
7 the location or address of the property treated, the total
8 square footage of the structure treated, the type of pesticide
9 applied, the concentration of each substance in the mixture
10 applied, and the total amount of pesticide applied.

11 Section 3. Paragraph (a) of subsection (2) of section
12 482.091, Florida Statutes, is amended to read:

13 482.091 Employee identification cards.--

14 (2)(a) An identification cardholder must be an
15 employee of the licensee and work under the direction and
16 supervision of the licensee's certified operator in charge and
17 shall ~~may~~ not be an independent contractor. An identification
18 cardholder shall operate ~~may perform~~ only ~~pest control~~
19 ~~services~~ out of, and ~~or~~ for customers assigned ~~arising~~ from,
20 the licensee's licensed business location. An identification
21 cardholder shall ~~may~~ not perform any pest control
22 independently of and without the knowledge of the licensee and
23 the licensee's certified operator in charge and shall ~~may~~
24 perform pest control only for the licensee's customers.

25 Section 4. Subsection (7) of section 482.211, Florida
26 Statutes, is amended to read:

27 482.211 Exemptions.--This chapter does not apply to:

28 (7) ~~Area~~ Mosquito control activities conducted by a
29 local government or district established under chapter 388 or
30 by a contractor of the local government or district.

31

1 Section 5. Section 500.033, Florida Statutes, is
2 amended to read:

3 500.033 Florida Food Safety and Food Defense Security
4 Advisory Council.--

5 (1) There is created the Florida Food Safety and Food
6 Defense Security Advisory Council for the purpose of serving
7 as a forum for presenting, investigating, and evaluating
8 issues of current importance to the assurance of a safe and
9 secure food supply to the citizens of Florida. The Florida
10 Food Safety and Food Defense Security Advisory Council shall
11 consist of, but not be limited to: the Commissioner of
12 Agriculture or his or her designee; the Secretary of Health or
13 his or her designee; the Secretary of Business and
14 Professional Regulation or his or her designee; the person
15 responsible for domestic security with the ~~Florida~~ Department
16 of Law Enforcement; members representing the production,
17 processing, distribution, and sale of foods; consumers or
18 ~~and/or~~ members of citizens groups; ~~or~~ food industry groups;
19 scientists or other experts in aspects of food safety from
20 state universities; representatives from local, state, and
21 federal agencies that are charged with responsibilities for
22 food safety or food defense security; the chairs of the
23 Agriculture Committees of the Senate and the House of
24 Representatives or their designees; and the chairs of the
25 committees of the Senate and the House of Representatives with
26 jurisdictional oversight of home defense issues or their
27 designees. The Commissioner of Agriculture shall appoint the
28 remaining members. The council shall make periodic reports to
29 the Department of Agriculture and Consumer Services concerning
30 findings and recommendations in the area of food safety and
31 food defense security.

