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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/3R

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05/01/2009 12:00 PM

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Senator Dean moved the following:

Senate Amendment (with title amendment)

Between lines 27 and 28

insert:

Section 1. Subsections (5) and (7) of section 482.021,
Florida Statutes, are amended to read:

482.021 Definitions.—For the purposes of this chapter, and
unless otherwise required by the context, the term:

(5) "Certified operator in charge" means a certified
operator:

(a) Whose primary occupation is the pest control business;

(b) Who is employed full time by a licensee; and



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13 (c) Whose principal duty is the ~~personal~~ supervision of the
14 licensee's operation in a category or categories of pest control
15 in which the operator is certified.

16 (7) "Employee" means a person who is employed by a licensee
17 that provides that person with necessary training, supervision,
18 pesticides, equipment, and insurance and who receives
19 compensation from and is under the ~~personal~~ supervision ~~and~~
20 ~~direct control~~ of the licensee's certified operator in charge
21 and from whose compensation the licensee regularly deducts and
22 matches federal insurance contributions and federal income and
23 Social Security taxes.

24 Section 2. Subsection (3) of section 482.051, Florida
25 Statutes, is amended to read:

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

34 (3) That written contracts be required for providing
35 termites and other wood-destroying organisms pest control, that
36 provisions necessary to assure consumer protection as specified
37 by the department be included in such contracts, that licensees
38 perform an inspection before issuing a contract on an existing
39 structure, and that ~~require~~ licensees ~~to~~ comply with the
40 contracts issued.

41 Section 3. Subsection (4) of section 482.071, Florida



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42 Statutes, is amended to read:

43 482.071 Licenses.—

44 (4) A licensee may not operate a pest control business
45 without carrying the required insurance coverage. Each person
46 making application for a pest control business license or
47 renewal thereof must furnish to the department a certificate of
48 insurance that meets the requirements for minimum financial
49 responsibility for bodily injury and property damage consisting
50 of:

51 (a) Bodily injury: \$250,000 ~~\$100,000~~ each person and
52 \$500,000 ~~\$300,000~~ each occurrence; and property damage: \$250,000
53 ~~\$50,000~~ each occurrence and \$500,000 ~~\$100,000~~ in the aggregate;
54 or

55 (b) Combined single-limit coverage: \$500,000 ~~\$400,000~~ in
56 the aggregate.

57 Section 4. Section 482.072, Florida Statutes, is created to
58 read:

59 482.072 Pest control service centers.—

60 (1) The department may issue a license to a qualified
61 business to operate a pest control service center, to solicit
62 pest control business, or to provide services to customers for
63 one or more business locations licensed under s. 482.071. A
64 person may not operate a centralized service center for a pest
65 control business that is not licensed by the department.

66 (2) (a) Before operating a pest control service center, and
67 biennially thereafter, on or before an anniversary date set by
68 the department for the licensed pest control service center
69 location, the pest control business must apply to the department
70 for a license under this chapter, or a renewal thereof, for each



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71 pest control service center location. An application must be
72 submitted in the format prescribed by the department.

73 (b) The department shall establish a fee for the issuance
74 of a pest control service center license of at least \$500, but
75 not more than \$1,000, and a fee for the renewal of a license of
76 at least \$500, but not more than \$1,000; however, until rules
77 setting the fees are adopted by the department, the initial
78 license and renewal fees are each set at \$500. The department
79 shall establish a grace period, not to exceed 30 calendar days
80 after a license's anniversary renewal date. The department shall
81 assess a late renewal fee of \$150, in addition to the renewal
82 fee, to a business that renews its license after the grace
83 period.

84 (c) A license automatically expires 60 calendar days after
85 the anniversary renewal date unless the license is renewed
86 before that date. Once a license expires, it may be reinstated
87 only upon reapplication and payment of the license fee and late
88 renewal fee.

89 (d) A license automatically expires when a licensee changes
90 its pest control service center business location address. The
91 department shall issue a new license upon payment of a \$250 fee.
92 The new license automatically expires 60 calendar days after the
93 anniversary renewal date of the former license unless the
94 license is renewed before that date.

95 (e) The department may not issue or renew a license to
96 operate a centralized pest control service center unless the
97 pest control business licensees for whom the centralized service
98 center solicits business have one or more common owners.

99 (f) The department may deny the issuance of a pest control



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100 service center license, or refuse to renew a license, if the
101 department finds that the applicant or licensee, or any of its
102 directors, officers, owners, or general partners, are or were
103 directors, officers, owners, or general partners of a pest
104 control business described in s. 482.071(2)(g) or violated a
105 rule adopted under s. 482.071(2)(f).

106 (g) Section 482.091 does not apply to a person who solicits
107 pest control services or provides customer service in a licensed
108 pest control service center unless the person performs the pest
109 control work described in s. 482.021(21)(a)-(d), executes a pest
110 control contract, or accepts remuneration for such work.

111 (3)(a) The department shall adopt rules establishing
112 requirements and procedures for recordkeeping and monitoring of
113 pest control service center operations to ensure compliance with
114 this chapter and rules adopted under this chapter.

115 (b) Notwithstanding s. 482.163, whether an employee acts
116 outside of the course and scope of his or her employment or
117 whether the employee disobeys employer policies:

118 1. A pest control service center licensee may be subject to
119 disciplinary action under s. 482.161 for a violation of this
120 chapter or a rule adopted under this chapter committed by an
121 employee of the service center.

122 2. A pest control business licensee may be subject to
123 disciplinary action under s. 482.161 for a violation committed
124 by an employee of the service center if the business licensee
125 benefits from the violation.

126 Section 5. Section 482.152, Florida Statutes, is amended to
127 read:

128 482.152 Duties of certified operator in charge of pest



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129 control activities of licensee.—A certified operator in charge
130 of the pest control activities of a licensee shall have her or
131 his primary occupation with the licensee and shall be a full-
132 time employee of the licensee. The, and her or his principal
133 duties of the certified operator in charge ~~duty~~ shall include:

134 (1) The Responsibility for the personal supervision of, and
135 participation in, the pest control activities of at the business
136 location of the licensee. This chapter does not prevent a
137 certified operator in charge from performing duties at other
138 business locations owned by the licensee if:

139 (a) The certified operator in charge performs her or his
140 duties as provided in this section for the business location of
141 the licensee.

142 (b) The certified operator in charge is a full-time
143 employee of the licensee.

144 (c) The primary occupation of the certified operator in
145 charge is the pest control business. as the same relate to:

146 (2)-(1) The Selection of proper and correct chemicals for
147 the particular pest control work performed.

148 (3)-(2) The Safe and proper use of the pesticides used.

149 (4)-(3) The Correct concentration and formulation of
150 pesticides used in all pest control work performed.

151 (5)-(4) The Training of personnel in the proper and
152 acceptable methods of pest control.

153 (6)-(5) The Control measures and procedures used.

154 (7)-(6) The Notification of the department of any accidental
155 human poisoning or death connected with pest control work
156 performed on a job she or he is supervising, within 24 hours
157 after she or he has knowledge of the poisoning or death.



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158 Section 6. Section 482.157, Florida Statutes, is created to
159 read:

160 482.157 Limited certification for commercial wildlife
161 management personnel.-

162 (1) The department shall establish a limited certification
163 category for individual commercial wildlife management personnel
164 which authorizes the personnel to use nonchemical methods for
165 controlling pest birds or rodents, including, but not limited
166 to, the use of traps, glue boards, mechanical or electronic
167 devices, or exclusionary techniques.

168 (2) A person seeking limited certification under this
169 section must pass an examination administered by the department.
170 An application for examination must be accompanied by an
171 examination fee set by rule of the department of at least \$150
172 but not to exceed \$300. The department shall provide the
173 appropriate reference materials for the examination and make the
174 examination readily available to applicants at least quarterly
175 or as often as necessary in each county. Before the department
176 issues a limited certification under this section, the person
177 applying for certification must furnish proof that he or she
178 holds a certificate of insurance stating that his or her
179 employer meets the requirements for minimum financial
180 responsibility in s. 482.071(4).

181 (3) An application for recertification under this section
182 must be submitted biennially and must be accompanied by a
183 recertification fee set by rule of the department of at least
184 \$150 but not to exceed \$300. The application must also be
185 accompanied by proof that:

186 (a) The applicant completed 4 classroom hours of acceptable



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187 continuing education.

188 (b) The applicant holds a certificate of insurance stating
189 that his or her employer meets the requirements for minimum
190 financial responsibility in s. 482.071(4).

191 (4) The department shall establish a grace period, not to
192 exceed 30 calendar days after a biennial date established by the
193 department on which recertification is due. The department shall
194 assess a late charge of \$50, in addition to the recertification
195 fee, to commercial wildlife management personnel who are
196 recertified after the grace period.

197 (5) A limited certification automatically expires 180
198 calendar days after the biennial date on which recertification
199 is due unless the commercial wildlife personnel are recertified
200 before the certification expires. Once a certification expires,
201 certification may be issued only upon successful reexamination
202 and payment of the examination fees.

203 (6) Certification under this section does not authorize:

204 (a) Use of any pesticide or chemical substance, other than
205 adhesive materials, to control pest birds, rodents, or other
206 nuisance wildlife in, on, or under a structure.

207 (b) Operation of a pest control business.

208 (c) Supervision of a certified person.

209 Section 7. Subsection (6) of section 482.226, Florida
210 Statutes, is amended to read:

211 482.226 Wood-destroying organism inspection report; notice
212 of inspection or treatment; financial responsibility.—

213 (6) Any licensee that performs wood-destroying organism
214 inspections in accordance with subsection (1) must meet minimum
215 financial responsibility in the form of errors and omissions



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216 (professional liability) insurance coverage or bond in an amount
217 no less than \$250,000 ~~\$50,000~~ in the aggregate and ~~\$25,000 per~~
218 ~~occurrence,~~ or demonstrate that the licensee has equity or net
219 worth of no less than \$500,000 ~~\$100,000~~ as determined by
220 generally accepted accounting principles substantiated by a
221 certified public accountant's review or certified audit. The
222 licensee must show proof of meeting this requirement at the time
223 of license application or renewal thereof.

224
225

226 ===== T I T L E A M E N D M E N T =====

227 And the title is amended as follows:

228 Delete line 2

229 and insert:

230 An act relating to arboriculture; amending s. 482.021,
231 F.S.; revising terminology to modify requirements for
232 supervision provided by certified operators in charge
233 of pest control businesses; amending s. 482.051, F.S.;
234 requiring pest control licensees to perform
235 inspections before issuing certain contracts; amending
236 s. 482.071, F.S.; increasing the financial
237 responsibility requirements for pest control
238 licensees; creating s. 482.072, F.S.; requiring pest
239 control service center licenses; providing license
240 application requirements and procedures; providing for
241 expiration and renewal of licenses; establishing
242 license fees; exempting pest control service center
243 employees from identification card requirements except
244 under certain circumstances; requiring recordkeeping



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245 and monitoring of service center operations;
246 authorizing disciplinary action against pest control
247 licensees for violations committed by service center
248 employees; amending s. 482.152, F.S.; revising duties
249 and supervisory requirements of certified operators in
250 charge of pest control businesses; creating s.
251 482.157, F.S.; providing for pest control
252 certification of commercial wildlife management
253 personnel; providing application procedures and
254 requirements; requiring a certification examination;
255 establishing certification fees; amending s. 482.226,
256 F.S.; increasing the financial responsibility
257 requirements for certain pest control licensees;
258 creating ch. 598,