

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/CS/SB 1290

INTRODUCER: Committee on Environmental Preservation and Conservation, Committee on Agriculture and Senator Dean

SUBJECT: Pest Control

DATE: March 31, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Spalla</u>	<u>AG</u>	<u>Fav/ CS</u>
2.	<u>Wiggins</u>	<u>Yeatman</u>	<u>EP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute for committee substitute (CS) revises the Florida Structural Pest Control Act. It authorizes the Department of Agriculture and Consumer Services (DACS) to issue a license to operate a customer contact center for the purpose of soliciting pest control business and coordinating services to consumers for one or more business locations. The CS also provides that a person cannot operate a customer contact center for a pest control business that is not licensed by DACS and establishes a licensing fee and biennial renewal fee.

The CS establishes a limited certification for a commercial wildlife management personnel category within DACS authorizing persons to use nonchemical methods for controlling rodents. The certification process includes successful completion of an examination, an examination fee, annual recertification, late fees (when appropriate), continuing education classes and proof of a certificate of insurance for minimum financial responsibility.

The CS increases the minimum requirements for insurance coverage to conduct pest control businesses, which have not been increased since 1992. And finally, the CS expands the methods

by which a pest control licensee may contact DACS regarding the location where fumigation will be taking place to include notification by facsimile or other forms of electronic communication.

This CS amends sections 482.051, 482.071, and 482.226 of the Florida Statutes.

This CS creates sections 482.072 and 482.157 of the Florida Statutes.

II. Present Situation:

In 1947, the Legislature enacted a statute known as the Structural Pest Control Act of Florida. It was believed that the persons who were engaged in the Pest Control Industry required a certain amount of regulation for the health, welfare and protection of Florida citizens.¹ In 1959, the Legislature enacted a new Florida Structural Pest Control Act that repealed and superseded the act of 1947.² The practice of commercial pest control in Florida continues to be strictly regulated under the provisions of the Structural Pest Control Act, Chapter 482, F.S., and Rule Chapter 5E-14, Florida Administrative Code. These regulations are administered and enforced by DACS' Pest Control Section of the Bureau of Entomology and Pest Control.

Pest control includes one or more of the following activities:

- The use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on or under a structure, lawn, or ornamental;
- The identification of or inspection for infestations or infections in, on or under a structure, lawn or ornamental;
- The use of any pesticide, economic poison, or mechanical device for preventing, controlling, eradicating, identifying, inspecting for, mitigating, diminishing, or curtailing insects, vermin, rodents, pest birds, bats, or other pests in, on or under a structure, lawn, or ornamental;
- All phases of structural fumigation (includes boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers); and
- The advertisement of, the solicitation of, or the acceptance of remuneration for any work, but does not include the solicitation of a bid from a licensee to be incorporated in an overall bid by an unlicensed primary contractor to supply services to another.³

For structural pest control, the law provides that each pest control business location must be licensed by the DACS and that a Florida certified operator must be in charge of the pest control operations of the business location. Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region.

¹ <http://www.apms.org/japm/vol06/v6p14.pdf>.

² <http://www.jstor.org/pss/3492520>.

³ <http://www.flaes.org/aes-ent/licenseandcert.html>.

Florida law currently requires pest control businesses doing business in the state to register and obtain a license to operate, but does not address pest control contact centers. Therefore, a customer contact center must obtain a pest control license, even though they are only receiving telephone calls and soliciting business. Allowing a licensed pest control business to operate a centralized customer service center for multiple business locations owned by the same owner would allow licensees a more efficient means of providing service to customers while still protecting customers through specific requirements for licensure and accountability.

A pest control business licensee may not operate a pest control business without carrying the required insurance coverage and furnishing DACS with a certificate of insurance that meets the requirements for minimum financial responsibility for bodily injury: \$100,000 each person and \$300,000 each occurrence; and property damage: \$50,000 each occurrence and \$100,000 in the aggregate.⁴ These minimum requirements for insurance coverage to conduct pest control business have not been increased since 1992. These minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

Rats and mice, the most common rodent pests in Florida, often enter homes, farm buildings, and warehouses in search of food and shelter. These rodents have adapted to live with man, who has carried them to every corner of the earth. Rats and mice consume or contaminate large quantities of food and damage structures, stored clothing, and documents. They also serve as reservoirs or vectors of numerous diseases, such as Rat-bite fever, Leptospirosis (Weil's Disease), Murine Typhus, Rickettsial pox, Plague, Trichinosis, Typhoid, Dysentery, Salmonellosis, *Hymenolepis* tapeworms, Lymphocytic choriomeningitis, and Hanta virus.

Another species in Florida that may enter a home or building is bats. The statutory definition of "rodents" includes bats, which are not members of the order Rodentia.⁵ According to the Florida Fish and Wildlife Conservation Commission (FWC), there are three species of endangered or threatened bats. The Florida bonneted bat, which is listed as threatened, may make a home in the barrel tiled roofs of South Florida. This is a rare occurrence but all bats whether listed as protected or not may not be intentionally killed or wounded. The FWC's nuisance wildlife rule does not allow the intentional taking of bats.⁶ If bats are discovered on a property, than the owner needs to contact the FWC to identify the bat. The only legal remedy for removing bats is utilizing an exclusion device. Exclusion devices allow the bats to fly out but not to return so the bats will find another home. Bat exclusion devices may not be utilized during the birthing/rearing season which occurs between August 15th and April 15th. The Florida Bat Conservancy or FWC can provide technical assistance to a homeowner on a safe and legal remedy to remove bat/bats from the premises. The penalty for killing or wounding listed species without a permit is a third degree felony.⁷

In most cases of rodent infestation, the pest animals can be controlled without having to resort to the use of poisons. If rodents do find their way indoors, small populations can be easily eliminated with various nontoxic methods. Rodenticides (rodent poisons) need only be used in

⁴ s. 482.071(4), F.S.

⁵ s. 482.021(24), F.S.

⁶ Rule 68A-9.010 F.A.C.

⁷ s. 379.411, F.S.

cases of large or inaccessible infestations. The trapping of rodent pests is often preferable to the use of poisons. Traps prevent rodents from dying in inaccessible places and causing an odor problem. There is no chance of an accidental poisoning or secondary poisoning of nontarget wildlife, pets, or children with the use of traps. Secondary poisoning of pets or wildlife can result from eating poisoned rodents. Traps can be used in situations where poisons are not allowed or recommended, such as in food handling establishments.⁸

Currently, there is no provision for a limited certification for commercial wildlife trapper personnel to use nonchemical methods to control rodents. For several years, the Florida Fish and Wildlife Conservation Commission has issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years, resulting in permitting being discontinued in 2008. Several persons still engaged in the control of nuisance wildlife have contacted the DACS asking to have a certification process reinstated to assure that the nuisance animals are being handled humanely and the public is protected. The CS clarifies that certificate holders who practice accepted pest control methods would be immune from liability for violating laws prohibiting cruelty to animals.

For clarity purposes, the CS includes the word “commensal” to describe rodent. According to Pest Management Professionals, “commensal” pets are species of wildlife which have adapted to and become partially dependent on the human-built environment for food, water, and sometimes shelter.⁹ Currently, to protect the health, safety and welfare of the public, a pest control licensee must give the DACS an advance notice of at least 24 hours of the location where general fumigation will be taking place. In emergency cases, when a 24-hour notice is not possible, a licensee may provide notice by means of a telephone call and then follow up with a written confirmation providing the required information.

III. Effect of Proposed Changes:

Section 1 amends s. 482.051, F.S., to authorize a rule change. In the event of an emergency requiring fumigation, pest control operators may provide emergency notice of the fumigation location to the DACS by facsimile or other form of electronic means.

Section 2 amends s. 482.071, F.S., to increase the minimum insurance requirements for a pest control licensee from \$100,000 to \$250,000. This change reflects the current levels of insurance offered by liability insurers.

Section 3 creates s. 482.072, F.S., to allow the establishment, inspection and regulation of centralized pest control customer contact centers. This would allow licensed centers to solicit pest control business and to provide service to customers for one or more business locations. It provides for the biennial renewal of the license. It also establishes a licensure fee of at least \$600, but not more than \$1,000 and renewal fees of at least \$600, but not more than \$1,000. This section also provides for the expiration of a license not renewed within 60 days of a renewal deadline. A license automatically expires if a licensee changes its customer contact center business location and requires issuance of a new license upon payment of a \$250 fee. It

⁸ <http://edis.ifas.ufl.edu/mg218>.

⁹ IPM for Commensal Rodents-Curriculum for Bio-Integral Resource Center Pest Management Professionals, Global Environmental Options, March 2005, at <http://www.birc.org/Rodent%20Curriculum.pdf>.

authorizes the DACS to adopt rules establishing requirements and procedures for recordkeeping and monitoring customer contact center operations. It provides for disciplinary action for violations of chapter 482, F.S., or any rule adopted hereunder.

Section 4 creates s. 482.157, F.S., to establish a limited certification category for individual commercial wildlife trapper personnel engaged in the nonchemical control of wildlife to also control rodents, as defined in chapter 482, F.S. It requires an exam and establishes certification fees of at least \$150, but not to exceed \$300. This section also provides for recertification fees, classes, and late fees. The CS limits the scope of work permitted by certificate holders and clarifies that licensees and certificate holders who practice accepted pest control methods are immune from liability for violating animal cruelty laws. However, licensees and certificate holders are not exempt from the rules, orders or regulations of the FWC.

Section 5 amends s. 482.226, F.S., to increase the minimum insurance requirements for a pest control licensee that performs wood-destroying organism inspections from \$50,000 to \$500,000. This change reflects the current levels of insurance offered by liability insurers.

Section 6 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Refer to Private Sector and Government Sector Impacts.

B. Private Sector Impact:

Pest control businesses that choose to obtain the license for a customer service center would incur the fees established by the CS. Pest control businesses that do not currently have the proposed minimum insurance requirements will have to increase their insurance coverage and will incur additional costs. Most insurance available today already exceeds the 1992 limits.

Individuals who conduct wildlife management services and wish to obtain limited certification to control rodents will incur the fees associated with the limited certification.

C. Government Sector Impact:

	2011-12	2012-13	2013-14
REVENUES:			
<u>Customer Contact Center:</u>			
License*	6,000	0	6,000
<u>Limited Certification Wildlife:</u>			
Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	0	7,500	7,500
TOTAL	\$ 21,000	\$15,000	\$ 21,000

*Based on 10 licenses issued per year at \$600 each, renewing biennially.

**Based on 100 exams the first year, 50 the second and third years, at \$150 each.

***Based on 100 renewals at \$75 each.

	2011-12	2012-13	2013-14
EXPENDITURES:			
Inspections*	15,860	15,860	15,860
License Issuance**	1,097	499	1,595
TOTAL	\$16,957	\$16,359	\$17,455

*FY 09-10 unit cost per inspection, 20 inspections at \$793.

**FY 09-10 unit cost per license, 110 inspections at \$9.97 the first year, 50 inspections the second year, and 160 inspections the third year.

DACS will adopt rules relating to the requirements and procedures for recordkeeping and monitoring pest control customer contact center operations. DACS has indicated that the workload and cost to implement the rules can be absorbed by the current staff and will not require any additional funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by the Environmental Preservation and Conservation Committee on March 30, 2011:

The CS/CS removes the option of using glue boards to control rodents. The CS/CS includes the word “commensal” to describe rodents. The CS/CS clarifies that the FWC’s rules related to the taking of nuisance wildlife must be followed and does not allow the intentional taking of bats.

CS by the Agriculture Committee on March 21, 2011:

This CS makes technical changes to the bill that does not make any substantive changes.