

CHAPTER NO. 105

SENATE BILL NO. 1586

By Kurita

Substituted for: House Bill No. 1592

By Rinks

AN ACT To amend Tennessee Code Annotated, Title 62, Chapter 21, Part 1, relative to the "Tennessee Application of Pesticides Act of 1978".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-21-102(16), is amended by deleting the subdivision in its entirety, and by substituting instead the following language:

(16) "Recertification" means the reauthorization every three (3) years by the commissioner to use, supervise the use of, buy or sell restricted use pesticides;

SECTION 2. Tennessee Code Annotated, Section 62-21-102(20), is amended by inserting the language "within a one hundred twenty (120) mile radius" between the language "physically present" and the language "at the time and place" so that the subdivision reads as follows:

(20) "Under the direct supervision" means any application or sale of a pesticide by a competent person acting under the instructions and control of a private applicator, commercial applicator or commercial pest control operator who is available if and when needed, if such applicator or operator is physically present within a one hundred twenty (120) mile radius at the time and place the pesticide is applied, sold or bought; and

SECTION 3. Tennessee Code Annotated, Section 62-21-120, is amended by deleting the section in its entirety, and by substituting instead the following language:

(a) It is an offense for any person, required by this chapter to be chartered or licensed to engage in commercial pest control activities, to knowingly engage in such activity without first obtaining the required charter or license.

(b) Violation of Subsection (a) is a Class A Misdemeanor.

(c) Each custom application of pesticides without the required charter or license constitutes a separate offense.

(d) Persons convicted under Subsection (a) are ineligible to obtain a charter or license to engage in commercial pest control activities for a period of one (1) year from the date of such person's conviction of such offense.

SECTION 4. Tennessee Code Annotated, Title 62, Chapter 21, Part 1, is amended by adding the following as an appropriately designated new section:

Section 62-21-1___. Assessment of investigation and hearing costs – Rules and Regulations.

(a) Notwithstanding any contrary provision of law, the department or any division, board, commission or agency attached thereto may assess the actual and reasonable costs of the investigation, prosecution and hearing of any disciplinary action held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, Part 3, in which sanctions of any kind are imposed on any person or entity required to be licensed, permitted, registered or otherwise authorized or regulated by the department or its respective divisions, board, commissions or agency. These costs may include, but are not limited to, those incurred and assessed for the time of the prosecuting attorneys, investigators, expert witnesses, administrative judges, court reporters and any other persons involved in the investigation, prosecution and hearing of the action.

(b)(1) All costs assessed pursuant to this section shall become final thirty (30) days after the date a final order of assessment is served.

(2) If the individual or entity disciplined fails to pay an assessment when it becomes final, the department may apply to the appropriate court for a judgment and seek execution of such judgment.

(3) Jurisdiction for recovery of such costs shall be in the chancery court of Davidson County.

SECTION 5. This act shall take effect July 1, 2001, the public welfare requiring it.

PASSED: April 11, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of April 2001


DON SUNDQUIST, GOVERNOR