

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 556
SENATE BILL 537

AN ACT TO AMEND ARTICLE 4C OF CHAPTER 106 OF THE GENERAL STATUTES,
THE STRUCTURAL PEST CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.23 is amended by rewriting the fifth and sixth sentences in the third paragraph thereof which now read "The vacancy occurring on the Committee by the expired term of the member from the entomology faculty of said University shall be filled by the dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of his choice to serve on said Committee at the pleasure of the dean. The Governor shall appoint two members of said Committee who are actively engaged in the pest control industry and who are residents of the State of North Carolina but not affiliates of the same company.", so that said sentences shall read as follows: "The vacancy occurring on the Committee by the expired term of the member from the Entomology faculty of said University shall be filled by the Dean of the School of Agriculture of North Carolina State University at Raleigh who shall designate any person of his choice from the Entomology faculty of said University to serve on said Committee at the pleasure of the Dean. The Governor shall appoint two members of said Committee who are actively engaged in the pest control industry, who are licensed in at least two phases of structural pest control as provided under G.S. 106-65.25(a), and who are residents of the State of North Carolina but not affiliates of the same company."

Sec. 2. G.S. 106-65.24 is rewritten in its entirety to read as follows:

"§ 106-65.24. **Definitions.** — For the purposes of this Article, the following terms, when used in the Article or the rules and regulations, or orders made pursuant thereto shall be construed respectively to mean:

- (1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.
- (2) 'Applicant' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.
- (3) 'Attractants' means substances, under whatever name known, which may be toxic to insects and other pests but are used primarily to induce insects and other pests to eat poisoned baits or to enter traps.
- (3a) 'Branch office' means and includes any place of doing business which has two or more employees engaged in the control of insect pests, rodents, or wood-destroying organisms.
- (4) 'Certified applicator' means any individual who is certified under G.S. 106-65.25 as authorized to use or supervise the use of any pesticide which is classified for restricted use.
- (5) 'Commissioner' means the Commissioner of Agriculture of the State of North Carolina.
- (6) 'Committee' means the Structural Pest Control Committee.

- (7) 'Device' means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals): but not including equipment used for the application of pesticides when sold separately therefrom.
- (8) 'Director' means the Director of the Structural Pest Control Division of the Department of Agriculture.
- (9) 'Employee' means any person employed by a licensee with the exceptions of clerical, janitorial, or office maintenance employees, or those employees performing work completely disassociated with the control of insect pests, rodents or the control of wood-destroying organisms.
- (10) 'Fumigants' means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors and which gas or gases, fumes or vapors when liberated and when used will destroy vermin, rodents, insects, and other pests; but may be lethal, poisonous, noxious, or dangerous to human life.
- (11) 'Fungi' means wood-decaying fungi.
- (12) 'Insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for examples, spiders, mites, ticks, centipedes, and sowbugs.
- (13) 'Insecticides' means substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.
- (14) 'Label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- (15) 'Licensee' means the designated person in charge of the business establishment or business entity, whether it be individual, firm, partnership, corporation, association or any organization, or any combination thereof, engaged in pest control work covered under the provisions of this Article. Each branch office of a business establishment is to be in charge of a person who has a license herein provided for.
- (16) 'Person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
- (17) 'Pest' means any living organism, including but not limited to, insects, rodents, birds, and fungi, which the Commissioner declares to be a pest.
- (18) 'Pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
- (19) 'Repellents' means substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but are generally employed because of capacity for preventing the entrance or attack of pests.
- (20) 'Registered pesticide' means a pesticide which has been registered by the federal and/or State agency responsible for registering pesticides.
- (21) 'Restricted-use pesticide' means a pesticide which has been designated as such by the federal and/or State agency responsible for registering pesticides.
- (22) 'Rodenticides' means substances, not fumigants, under whatever name known, whether poisonous or otherwise, used for the destruction or control of rodents.

- (23) 'Structural pest control' means the control of wood-destroying organisms or household pests (including, but not limited to, animals such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites, wood borers, etc.), including the identification of infestations or infections, the making of inspections, the use of pesticides, including insecticides, repellents, attractants, rodenticides, fungicides, and fumigants, as well as all other substances, mechanical devices or structural modifications under whatever name known, for the purpose of preventing, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, and other structures, (including household structures, commercial buildings and other structures in all stages of construction) and outside areas, as well as all phases of fumigation, including treatment of products by vacuum fumigation, and the fumigation of railroad cars, trucks, ships, and airplanes, or any one or any combination thereof.
- (24) 'Under the direct supervision of a certified applicator' means unless otherwise prescribed by its labeling, a pesticide shall be considered to be applied under the direct supervision of a certified applicator if it is applied by a competent person acting under the instructions and control of a certified applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied."

Sec. 3. G.S. 106-65.25 is amended by adding a subsection (c) as follows:

"(c) Any person issued an original license after October 21, 1976, for any one or any combination of the three phases shall be deemed to be a 'certified applicator' to use or supervise the use of pesticides which are classified for restricted use so long as the pesticides are being used only in the phase of structural pest control for which the person is licensed."

Sec. 4. G.S. 106-65.26 is amended by rewriting subdivisions (2) and (3) so that they will read as follows:

- "(2) one or more years' training in specialized pest control, control of wood-destroying organisms or fumigation under university or college supervision may be substituted for practical experience. Each year of such training may be substituted for one year of practical experience; provided, however, if applicant has had less than 12 months' practical experience, the Committee is authorized to determine whether said applicant has had sufficient experience to take the examination.
- (3) a degree from a recognized college or university with training in entomology, sanitary or public health engineering, or related subjects; provided, however, if applicant has had less than 12 months' practical experience, the Committee is authorized to determine whether said applicant has had sufficient experience to take the examination."

Sec. 5. G.S. 106-65.27(a) is amended by rewriting the first sentence thereof which now reads, "All applicants must pass a satisfactory oral or written examination, or both oral and written examination.", so that said sentence reads as follows: "Each applicant for an original license must demonstrate upon written, or written and oral, examination to be prescribed by the Committee, his knowledge of pesticides, their usefulness and their hazards; his competency as a structural pest control operator for the phases in which he is applying for a license and his knowledge of the laws and regulations governing the use and application of pesticides."

Sec. 6. G.S. 106-65.27 is further amended by adding a subsection (c) to read as follows:

- "(c) The Committee shall by regulation provide for:

- (1) All licensees licensed prior to October 21, 1976, to become qualified as certified applicators, and
- (2) Requalifying licensees as certified applicators thereafter as required by the federal government at intervals no more frequent than that specified by federal law and federal regulation."

Sec. 7. G.S. 106-65.28(a) is amended by adding subdivisions (6), (7), (8), and (9) as follows:

- "(6) Aiding or abetting a licensed or an unlicensed person to evade the provisions of this Article, combining or conspiring with such a licensed or unlicensed person to evade the provisions of this Article, or allowing one's license to be used by an unlicensed person;
- (7) Impersonating any State, county or city inspector or official;
- (8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations;
- (9) Using any registered pesticide in a manner inconsistent with its labeling."

Sec. 8. G.S. 106-65.28(b) is amended by adding a new paragraph at the end thereof as follows:

"The lapsing of a State structural pest control license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the Committee of jurisdiction to proceed with any investigation or disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license."

Sec. 9. G.S. 106-65.30 is amended by rewriting the second paragraph thereof to read as follows:

"Prior to the issuance or renewal of a license, every nonresident owner of a business performing any phase of structural pest control work shall designate in writing to the Director, a resident agent upon whom service or notice of process may be had to enforce the provisions of this Article or any civil or criminal liabilities arising hereunder."

Sec. 10. G.S. 106-65.31 is amended by striking the figure "30" appearing in the first line of the third paragraph thereof and substituting in lieu thereof the figure "75". Said section is further amended by striking the figure "30" appearing in line seven of the fourth paragraph and substituting in lieu thereof the figure "75".

G.S. 106-65.31 is further amended by adding at the end thereof the following paragraph:

"No person shall act as a serviceman, salesman, estimator, solicitor, or agent for any licensee under this act, nor shall any such person be issued an identification card by the Structural Pest Control Committee, who has within three years of the date of application for an identification card, been convicted of, pled guilty or nolo contendere, or forfeited bond, in any court, state or federal, to a crime involving moral turpitude or to any violation of the North Carolina Structural Pest Control Act or to any regulation promulgated by the Structural Pest Control Committee. This provision shall not apply to any person whose citizenship has been restored as provided by law."

Sec. 11. G.S. 106-65.32 is amended by rewriting the fourth sentence thereof which reads: "Upon receiving such accusation, the Committee shall serve notice by registered mail of the time, place of hearing, and a copy of the charges upon the accused at least 30 days before the date of hearing.", so that said sentence reads: "Upon receiving such accusation, the Committee shall serve notice upon the accused at least 20 days before the date of the hearing notice by registered mail, or personally, of the time, place of hearing, and a copy of the charges."

Sec. 12. G.S. 106-65.35 is repealed effective October 21, 1974.

Sec. 13. A new section is added to Article 4C of Chapter 106 to read as follows:

"§ 106-65.36. **Reciprocity, intergovernmental cooperation.** — The Committee may cooperate or enter into formal agreements with any other agency of this State or its subdivisions or with any agency of any other state or of the federal government for the purpose of enforcing any of the provisions of this Article."

Sec. 14. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of May, 1973.